

3. The governing body

Introduction and aim

This note considers the role and duties of the Chair of governing body, Chancellor, Pro Chancellor, the head of institution and the Secretary/Clerk. To be effective in discharging their duties governors need to receive appropriate and timely information, and have sufficient time at meetings for key matters to be discussed and agreed.

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1. Chair of the governing body

An independent governor is appointed to act as 'Chairman' of the governing body and to chair its meetings. A Deputy or Vice-Chair may also be appointed who supports the work of the Chair and acts on their behalf when they are unavailable to perform their duties.

2. Role of Chair

The Chair is responsible for the leadership of the governing body and ensuring it operates effectively and efficiently. The Chair plays a central role in establishing the culture by which the governing body operates and the extent to which openness and debate at its meetings is encouraged. The Chair is also responsible for agreeing a set of personal objectives for the head of institution and appraising their performance. Although a non-executive role, the time required to fulfill the duties of a Chair may be considerable.

3. Key relationships

The relationship between the Chair and the head of institution is fundamental to the effective leadership and governance of the institution. A good working relationship needs to be established, but one where the Chair is able to both support and challenge the head of institution. The Chair should not become involved in the day-to-day management of the institution.

The Chair also needs to have good working relationships with all members of the governing body and with the Clerk or Secretary.

The working relationships between the Chair, head of institution and Clerk or Secretary forms a triangle of links that are at the heart of an institution's governance.

4. Finding a Chair

When seeking a new Chair, the first decision is whether to seek an appointment from the current membership of the governing body or to engage in an external search for a suitable candidate. The choice will be influenced by a range of factors, including the availability of suitable candidates from amongst the current membership of the governing body who are willing to take on the role as Chair.



5. Appointing a Chair

The process and criteria for appointing a Chair should be agreed by the whole governing body. The detailed selection process for a Chair is normally overseen by the nominations committee, or by a specially constituted 'appointments' committee. Once the process has been concluded, the committee Chair will advise the governing body as to the committee's recommendations. The full governing body will then decide whether to approve the committee's recommendations.

6. Term of appointment

The term of appointment for a Chair varies considerably between institutions. Some serve for relatively short periods, others for much longer terms.

To ensure the Chair retains their objectivity and independence of management, the [UK Corporate Governance Code](#) states that 'the Chair should not remain in post beyond nine years from the date of their first appointment to the board.' This means that if Chair has previously served as a non-executive director, the period of time for which they are able to serve as Chair is reduced.

The instruments of government of some institutions require the Chair to be formally (re-)appointed annually by the governing body at its opening meeting for the academic year¹.

7. Succession planning

Succession planning is important. This means anticipating when the existing Chair will reach the end of their final term of office, and running the selection process to find a successor in advance of this time. For newly designated Chairs, consideration should be given to the benefits of having a period of transition or 'hand-over' from the outgoing Chair to the incoming Chair. This may include a period when the Chair designate 'shadows' the incumbent and become familiar with all aspects of institutional governance.

8. Feedback from governors

An increasingly common feature is to seek feedback from members on their views as to the operation of the governing body and how the Chair is carrying out their duties. This may be achieved in a variety of ways.

9. Senior independent directors

As part of the corporate governance code, public listed companies appoint a senior independent director to facilitate feedback to the Chair. The senior independent director is a

non-executive director who, in addition to their general duties as a director, acts 'as a sounding board for the Chairman' and as a channel for board members to use to communicate with the Chair². Several higher education institutions have adopted the practice of appointing a senior independent director. In other institutions, the duties of the role of the senior independent director have been incorporated into the role of the deputy or vice-Chair.

10. Chancellors and Pro Chancellors

Many institutions appoint a Chancellor or Pro Chancellor. These roles are ceremonial and ambassadorial. The individuals chosen usually have a significant public profile. They play no part in the institution's formal governance, but are usually involved in high-profile public events, including graduation ceremonies and fund-raising events.

11. Head of institution

The head of institution is responsible for the executive management of the institution, and its day-to-day management. They should be mindful to ensure matters reserved for the governing body's decision are referred to it for discussion and approval.

The appointment of a head of institution is a key responsibility of the governing body³. 'Poor' appointments may contribute to weak institutional performance, while 'good' appointments are likely to contribute to the success of the institution.

The performance of the head of the institution should be reviewed annually, with pay and conditions being determined by a remuneration committee. The committee's decisions are reported to the whole governing body⁴.

12. Clerks or Secretaries

All governing bodies require a Clerk (or Secretary) who plays a major role in the effective and efficient operation of the governing body and its committees. The Clerk is appointed by, and is directly responsible to, the governing body for the performance of their duties. The Clerk should work closely with the Chair of the governing body, bringing to their attention any issues that the governing body needs to be made aware of, and offering advice on constitutional matters as required. The Clerk is also responsible to the Chairman for the preparation and retention of the minutes of the meetings of the governing body.



13. Combining roles

In some institutions the role of Clerk is combined with a senior management role, for example, Registrar. In these instances, it is important that the individual is able to separate their executive responsibilities from their role as Clerk. As Clerk they should recognise their responsibility is to the governing body, and 'in extremis' may need to offer advice to the Chair that discomforts the head of the institution.

14. Committees

The limited number of meetings and volume of work of governing bodies means that most governing bodies operate with the support of a number of committees. Membership of the committees is drawn primarily from the governing body⁵. Most members of a governing body will be expected to serve as a member of one or more committees.

Committees – some of which are required to meet the requirements of the relevant governance code or regulator – allow detailed work on specific areas to be undertaken, and for the committee to make recommendations, as appropriate, to the full governing body for its consideration.

15. Committee Chairs

An external member of the governing body will normally Chair each committee. The Chair is responsible for ensuring the committee fulfils its duties as detailed by its terms of reference. While the process of appointing committee Chairs varies, a Chair will normally be selected on the basis of that they have knowledge and expertise relevant to the committee's work.

The Chair should ensure that sufficient time is allowed at the meetings of governing body for committee Chairs to report on the business their committee has conducted, and to explain any recommendations they are making⁶.

16. Setting agendas

Ensuring that the governing body (and its committees) focuses on its responsibilities starts with agreeing the agenda for a meeting. The Clerk working with the Chair and head of institution normally drafts the agenda for meetings of the governing body.

The agenda is likely to include a variety of items including, typically, a report from the head of the institution, papers from the executive on specific items (e.g. estates, key performance indicators), minutes from senate and minutes and papers from committees of the governing body. When shaping the agenda, it is important to try and

achieve a balance between, for example, items relating to compliance and regulation and those examining wider policy developments affecting the institution. Sufficient time should be allowed for key decisions, and major matters should be placed sufficient early on the agenda to avoid the risk that there is insufficient time for discussion or members' attention has begun to wane.

17. Papers for meetings

Ahead of the governing body (or a committee) meeting, governors will receive a set of meeting papers. The quality and scope of these papers is important. Governors need to receive 'timely' and 'appropriate' information to be able to make informed decisions. Problems arise if there is a lack of, or wrong, information provided. Both scenarios risk governors becoming 'unsighted' or poorly informed about important matters.

Governors should assure themselves that they are receiving the information that they need in order to make well-informed decisions. Papers should be informative but avoid being overly long or use excess jargon; and be clear as to decision the governing body is they being asked to make. If there is insufficient, unclear or poorly presented information or gaps, governors should be prepared to request additional information, and, if necessary, postpone a decision.

18. Quorum for meetings

To enable the agreed actions to be valid the meeting must be quorate. The constitutional instruments for the governing body will typically detail what attendance is required for a meeting to be quorate. Similarly, a committee's terms of reference will make it clear the attendance required for its meetings to be quorate.

19. Discussion and decisions

It is the Chair's responsibility to ensure there is sufficient time at the meeting, for adequate discussion of contentious issues or those that are mission critical. Rarely are decisions of the governing bodies made by taking a formal vote, but more generally through discussion and debate a consensus emerges. The role of the Chair in bringing the governing body to an agreed position by ensuring all views are heard, summarising the discussion and generally helping to shape an emerging consensus is often critical.

Should a formal vote be required details of the voting procedure will be set out in the governing body's constitutional instruments.



20. Recording a meeting

The purpose of minutes is to provide an accurate, impartial and balanced internal record of the business transacted at a meeting. They should record who was present at the meeting and the agreed actions. The accuracy of the minutes is normally agreed at the following meeting of the body to whom they relate. Once agreed the minutes will usually be signed by the Chair as the formal record of the meeting.

21. The level of detail recorded

The level of detail recorded in the minutes varies. This 'will depend to a large extent on the needs of the organisation, the sector in which it operates and the requirements of any regulator, and on the working practices of the Chairman, the board and the company Secretary⁷. For the higher education sector the detail is likely to be dependent on the 'house style', with typically institutions 'using the minutes to record the decisions (with references to supporting papers) rather than the nuances of the debate'⁸.

22. Schedule of delegation

A schedule of delegation defines the extent to which the Chair or head of institution may act without seeking formal approval from the governing body.

23. Cycle of business

Typically beginning in September/October and running to the following June/July, there will be a scheduled cycle of meetings for the academic year. Although any matter may be discussed at a meeting of the governing body – for example, how to respond to a newly announced policy on higher education or a specific institutional matter (e.g. development of new strategic plan) - there tends to be an annual pattern to the business. Typically, this might include the annual report and accounts (autumn), setting the budget (late spring/summer), monitoring of student applications (throughout the year) and actual recruitment (autumn).

24. Conclusions

The roles and the relationship between the Chair, head of institution and Clerk (or Secretary) are both individually and collectively, central to the governance of the institution. The individuals need to work in harmony, and successfully discharge their respective responsibilities.

25. Questions to review

- Q Does the Chair provide effective leadership of the governing body?
- Q Has succession planning for the Chair been undertaken?
- Q Does the governing body discuss the items it should?
- Q Ahead of their meetings do governors receive high-quality papers?
- Q Does the governing body have enough time to debate key decisions?
- Q Are the minutes of the meeting sufficiently detailed, clear and accurate to be helpful to governors?
- Q Is there a schedule of delegation?

End notes and further reading

- ¹ This is typically the case for post-92 institutions who are constituted as higher education corporations (HECs).
- ² The role of the senior independent director is discussed in [Guidance on Board Effectiveness](#), Financial Reporting Council, July 2018. See p.18, paras. 66-68.
- ³ For older institutions this may be a shared responsibility, involving senate or its equivalent, and may lead to the establishment of a joint appointing committee.
- ⁴ For a detailed discussion of the workings of a remuneration committee see [Briefing Note 16, The workings of the Remuneration Committee](#).
- ⁵ The institution's constitutional instruments may offer the opportunity to co-opt other individuals, with, say, specialist expertise onto the membership of a specific committee.
- ⁶ See [Guidance on Board Effectiveness](#), pp.18-19.
- ⁷ [The Institute for Chartered Secretaries \(ICSA\)](#), [Guidance Note on Minute Taking](#), April 2017, p.4.
- ⁸ Farrington D and Palfreyman D (2012), *The Law of Higher Education*, 2nd Edition, Oxford University Press, p.204.

