17. The governing body and matters of employment

Introduction and aim

The governing body's responsibilities extend to matters of employment, including appointing the head of the provider and acting as the employing authority for all staff. Governing bodies should ensure that, linked to the strategic plan, that there is a human resources strategy and an associated action plan. They should further keep under review the strategy and action plan, and monitor the outcomes arising from their implementation.

Topics covered

1. The context

Staffing is a key resource, and is key to the achievement of the provider's mission and strategy. Matters relating to the employment of staff are central to a provider's educational and financial performance. A provider's educational standing and reputation rests largely on the outputs of its staff, while staff costs typically form the largest item of expenditure in a provider's budget[1]. For these reasons, employment matters are at the heart of a provider's leadership and governance.

2. Contracts of employment

Higher education providers are independent legal entities able to offer contracts of employment and employ staff. The provider is the employing authority for all staff its employs.

3. National negotiated conditions of employment

A number of the conditions of employment for the majority of staff, notably salary and pensions, are determined through national negotiations on behalf of all 'public' higher education providers. To date few providers have moved to locally negotiated pay and conditions for the majority of their staff. Governors should expect to be briefed on the national or local negotiations with the trade unions, their likely effect on the pay and conditions of staff, and the financial impact on the provider.

4. Governing body responsibilities

A governing body's responsibilities for employment matters will be detailed in the statutes and ordinances (chartered providers) or the articles of government (providers constituted as Higher Education Corporations). Typically, they will cover:

- Appointing the head of the provider and other designated senior post holders
- Monitoring the performance and determining the pay and conditions of designated senior post holders
- Acting as the employing authority for all of the provider's staff.

5. Employment committees

Some, but by no means all, providers establish committees of the governing body to consider employment matters. In chartered providers they are often titled as the 'staffing' or 'personnel' committee. For post-92 providers, typically the articles of governance state the governing body 'shall establish a committee or committees to determine or advise on such policies as relate to employment policy or finance as the governing body remit to them.' Correspondingly, many post-92 providers have a personnel or employment committee.

6. Appointing a head of the provider

As the senior leader and its chief executive, the head of the provider has a pivotal role in providing organisational leadership and management. Their appointment is the governing body's responsibility, although in practice they are likely to (and may in some cases be required to) consult with stakeholders, including Senate. Selecting and appointing a new head of the provider inevitably takes time and resources.

7. Appointments or selection panel

Frequently, the governing body will establish an appointments or selection panel to oversee the appointment process for a new head of the provider. Membership of the panel is often drawn from a number of stakeholders, including, for example, 'lay' members of the governing body, members of senate and students. The chair of the governing body normally chairs the appointments panel.

8. Person specification

While appointment processes vary, typically they start by agreeing a person specification for the role. Led by the governing body, this is frequently progressed in consultation with some or all of the following stakeholders: staff, students, alumni and the Court (where one exists). The consultation with the different stakeholders inevitably takes time, but potentially leads to a wider consensus as to the type of individual sought. Once agreed, the person specification will inform the recruitment process and be included in the information pack for interested candidates [2].

9. Recruitment process

If the recruitment process is managed internally the Director of Human Resources (or similar role) will take the lead in overseeing the process. More frequently an executive search firm will be appointed, and they will manage the process on behalf of the provider.

10. Short-listing

Once the closing date for applicants has past, the appointments panel will normally meet to discuss and agree a short list of candidates. If an executive search firm has been employed, the discussion will be informed by their assessment of the candidates to whom they have spoken.

11. Short-listed candidates

Short-listed candidates will be invited to participate in the next stage of the recruitment process. This is likely to involve one or more of the following forms of engagement: interviews, presentations by the candidate, focus group discussions and psychometric testing. The process may be designed to enable different stakeholders – for example, Governors, staff and students – to be involved in the process and to offer their view of the candidates. The process may be spread over several days.

12. Making an appointment

In most instances the process of meeting and examining the short-listed candidates will lead to the emergence of a preferred candidate who, subject to the approval of the governing body, is offered the position of head of the provider. However, if the process does not yield any candidates deemed to be appointable, the governing body will need to consider careful what to do next? This may include re-advertising the role and running the process for a second time.

13. Appraising performance and determining pay

The governing body is responsible for appraising the performance of the head of the provider and other designated senior post holders and determining their pay and conditions. The remuneration committee normally discharges these responsibilities on behalf of the governing body, and makes recommendations to the governing body for their approval (see Briefing Note No 16; The work of the remuneration committee)

14. Establishing a human resources strategy

The indicative Statement of Primary Responsibilities contained within The Higher Education Code of Governance states that governing bodies are 'responsible for establishing a human resources strategy' [3].

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15. Purpose of the human resources strategy

The development of a human resources strategy offers Governors the opportunity to agree the direction and policies in relation to the provider's human resources, and facilitates oversight as to the execution of, and outcomes from, the strategy.

16. Scope of the human resources strategy

The human resources strategy is a sub-strategy of, and should be informed by, the provider's strategic plan. The strategy may typically encompass aims and objectives for human resources, an assessment of the current staffing position and future needs, key areas for action and performance measures. The human resources strategy should be agreed by the governing body.

17. Monitoring the human resources strategy

Review and monitoring of the strategy is often delegated by the governing body to an employment or other relevant committee. To assist effective monitoring, the executive team may produce an annual report on progress in implementing the strategy and achieving the planned outcomes. This may include details of the total staff resource and costs, levels of staff recruitment, retention and turnover, average salary levels, pay awards, profiles of service, age, sickness absence, gender, ethnicity and training and development.

18. Organisational culture

Governing bodies are responsible for the stewardship of the provider, and for protecting its reputation and values. These matters relate to the organisation's culture, and its values and beliefs. Greater emphasis has been placed on the role of the boards of directors in the private sector to ensure there is an 'appropriate' culture within the organisation [4]. Such responsibilities also carry over to the higher education sector, where governing bodies should both set an example by their actions as to the values they espouse, and seek to ensure the culture of the provider is appropriate [5].

19. Staff satisfaction

It is important to test and understand levels of staff satisfaction. Poor levels of staff satisfaction provide warning signals to the governing bodies and management. Awareness of areas of staff dissatisfaction allows issues requiring management attention to be identified, and appropriate actions instigated.

20. Establishing levels of satisfaction

There are a number of ways of gaining information from staff on their level of satisfaction. Staff surveys are frequently used and can provide a useful source of information on staff perceptions, morale and motivation. They may be supplemented by staff forums or discussion groups, at which staff meet with members of the executive and Governors. It is important to be aware that engagement with staff will increase expectations that the issues raised will be addressed by subsequent action. Feedback on management's response to staff is therefore important. Should action not materialise staff may become cynical about the process, adversely affecting their sentiment towards the provider and their motivation. It is important to evidence that there is a genuine desire to address key issues that staff have raised through subsequent communication and action.

21. Staff record

Annually providers return a staff record to the Higher Education Statistic Agency (HESA). This contains data on the characteristics of all staff under contract to the reporting provider, including, for example, total staff numbers, a breakdown of academic and non-academic staff, staff employed by cost centre and gender, ethnicity and disability data. The reporting period is the 1 August to 31 July.

22. Comparative data

HESA collates all of the provider returns and annually produces the Staff in Higher Education publication. A sample of employment statistics drawn from the publication can be freely downloaded from HESA's website. This data can be used for the purposes of making comparisons with other providers and for benchmarking. However, in the light of the wide diversity of providers comparisons need to be made with care.

23. Universities and Colleges Employers' Association

The Universities and College Employers' Association (UCEA) provides advice and guidance on employment matters and takes the lead on national pay bargaining for the sector. Some 167 higher education providers are members of UCEA.

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24. Pensions

Most staff working in pre-92 providers belong to the Universities Superannuation Scheme (USS). Academic staff employed by post-92 providers are normally members of the Teachers' Pension Schemes (TPS), while professional support staff belong to a Local Government Scheme (LGS).

25. Pension deficits

Reflecting changing in life expectancy (impacting on liabilities) and changing investment returns (impacting asset values), pension schemes are raising employee and employer contributions in order to address underfunding. Underfunding occurs if the scheme's assets are judged insufficient to meet its future liabilities. This is known as a pension deficit. Most pension schemes are currently in deficit. Pension schemes periodically re-value their assets and liabilities to establish the extent to which the scheme is in a surplus or deficit.

26.Net pension position

The net pension position for a provider's members of a funded pension scheme is shown as an asset or liability on the provider's balance sheet. This shows the size of the surplus or deficit applying to the individual provider. Most schemes and therefore providers currently have a net pension deficit. To ensure that the scheme's pension payments can be met, funding will eventually be required to make good this deficit [7]. The rising costs of employer contributions to close pension deficits is raising concerns across the higher education sector as to the future affordability of the current national pension schemes.

27. Equality and diversity

Attention needs to be directed to matters equality and diversity, covering new appointments and employment practice generally. Providers need to be able to evidence that they are able to meet their legal obligations for equality and diversity, and governors should seek assurances that appropriate actions to meet the statutory requirements have been introduced. Governors should expect to receive, reports setting out the diversity profile of staff and students and evidence that appropriate and positive action is being pursued to strengthen equality of opportunity and diversity. To support the work of governing bodies an Equality and Diversity toolkit is available.

28. Conclusions

Matters of employment are central to the leadership and governance of providers of higher education. Governing bodies need to ensure matters of employment are given appropriate attention.

29. Questions to consider

Q Has the governing body considered and agreed a human resources strategy?

Q Is the implementation of the strategy regularly monitored and reviewed?

Q Does the governing body receive an annual report on human resources?

Q Does the governing body discuss organisational culture and staff satisfaction?

Q Does the provider have a significant net pension liability?

End notes and further reading

[1] The financial aspects of staffing decisions are discussed in Briefing Note 18: Matters of finance and the governing body.

[2] Examples of how different providers have gone about appointing a new vice-chancellor can be found in the Governor dialogues. See, Governor Dialogue No.2: Rethinking Governance and purpose (Denis Burn, University of Bristol), and Governor Dialogue and Governor Dialogue No.7: Appointing a New Vice Chancellor (Bridget Towie, University of Leicester), September 2014.

[3] Committee of University Chairs, Revised June 2018 edition, Appendix 1.

[4] See, for example, Corporate Culture and the Role of Boards, Financial Reporting Council, July 2016.

[5] Discussion of these matters can be found in Briefing Note 27: Governing bodies and culture.

[6] For a funded pension scheme, payments into the scheme are ring-fenced and used to acquire assets whose return enables those of pensionable age to receive a pension. Such schemes seek to ensure their assets will generate sufficient funds to pay the scheme's pensioners, both now and in the future. USS and LGS are funded schemes. The TPS schemes are unfunded. For the TPS the government does not ring-fence the income received, but uses current tax revenues to pay members who are eligible to collect their pension. The increasing liabilities of the TPS schemes have led to increased employee and employer contributions.

[7] When a scheme is revalued actuaries make forward forecasts as to matters that cannot be known with certainty. These include the average life expectancy of the scheme's beneficiaries and the return on the scheme's invested assets. Changes in either variable can have a significant impact on the scheme's future liabilities or the value of its assets. The nature of how a valuation is arrived at, means relatively small differences in key variations can have a significant impact on the scheme overall position. Recent discussions as to the 'correct' valuation of the USS has highlighted this issue.