



Governing Council

Ordinances

Fourth Edition: July 2017

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1. Purpose and status of these Ordinances

Under the Articles of Association (2013 Edition), the Governing Council has powers to make Ordinances regarding the conduct of governance of the University. The purpose of these Ordinances is to provide clear rules on procedures relating to governance matters including the delegation of authority between Council and its committees, between committees of Council and the Executive. The status of these ordinances is that of *bye-laws*. The Ordinances are fully consistent with the Articles of Association. They are based upon standing orders agreed in 2005 and various papers down up since 2005.

The Ordinances are subject to the approval of Governing Council. They may be revised or amended by approval of the Governing Council at any properly constituted meeting of Council. The effect of any changes may be immediate or at some agreed date.

The reader of these Ordinances may find it useful to consult relevant sections of the Guide for Members of Higher Education Governing Bodies in the UK published by the Committee of University Chairs (2004; 2009, 2014). Specific cross-references have been inserted where relevant. <http://www.universitychairs.ac.uk/wp-content/uploads/2015/02/Code-Final.pdf>

2. The primary responsibilities of the Governing Council

2. The governing body of the University and the board of directors of the Company shall be known as the Governing Council. The primary responsibilities of the Governing Council are to:
 - 2.1 Determine the educational character and academic direction and integrity of the University and to ensure that students of the University have a high quality learning experience leading to academic awards which are subject to the application of appropriate academic standards.
 - 2.2 Approve the mission and strategic aims of the University, the Corporate Plan, budget, statutory accounts and the key indicators of University performance. Council must ensure that the University is financially sustainable and is using its resources efficiently for the benefit of its students and stakeholders.
 - 2.3 Hold the Vice-Chancellor as Chief Executive to account for the leadership and management of the institution. Also to establish and keep under regular review the policies, procedures and limits within which the management functions under the authority of the Vice-Chancellor.
 - 2.4 Ensure the establishment and monitoring of systems of control and accountability including financial and operational controls, solvency and risk assessment.
 - 2.5 Ensure that the University fulfils its legal obligations to provide accurate and timely information and reports to external bodies as required; and comply with financial memoranda issued by funding bodies and other such contractual commitments as it may legitimately enter into.

- 2.6 Ensure that there are procedures for handling internal grievance, conflicts of interest, fraud and corruption; and to ensure that staff can raise matters of concern.
- 2.7 Ensure that processes are in place to monitor and evaluate the performance and effectiveness of the University in each of its major activities against approved targets.
- 2.8 Monitor and evaluate the performance and effectiveness of the Governing Council itself.
- 2.9 Conduct its business in accordance with best practice in higher education corporate governance and with the principles of public life drawn up by the Committee of Standards in Public Life.
- 2.10 Appoint the Chancellor of the University, the Vice-Chancellor as Chief Executive and the Clerk to the Governing Council and to put into place arrangements for monitoring of their performance.
- 2.11 Appoint a Clerk to the Governing Council and to ensure that there is an appropriate separation of her/his lines of accountability from any management functions.
- 2.12 Ensure that there is provision for the appointment, grading, appraisal, remuneration, professional development, welfare, discipline, suspension and dismissal of staff including the senior post holders.
- 2.13 Ensure that students benefit from a valuable learning experience. There must be complaint procedures which students may use and there must be procedures which are used in the event of alleged student disciplinary offences.
- 2.14 Ensure that the Students' Union is operating in a sound and responsible manner and that University resources granted to the Students' Union are used appropriately. The Students' Union Constitution and any proposed amendments must be acceptable to the Governing Council. The Students' Union shall report on its activities and performance on a regular basis and present the Governing Council with the audited accounts annually.

3. The enabling powers of the University

The University is empowered to undertake a range of actions including but not restricted to the following. It may:

- Award degrees and other certificated academic awards to students in recognition of their learning achievements
- Award honorary degrees and titles to others who have made significant contributions to society
- Serve as a provider of education
- Contribute to the economic and cultural life of Society

- Engage with the business community and service the needs of business
- Undertake commercial activities in pursuit of its objectives ensuring always that it does not compromise its status as an Exempt Charity.
- Work in partnership with organisations anywhere in the world in pursuit of its objectives
- Bring into the University Group institutions and organisations which will enable the University to achieve its objectives
- Purchase and sell property in pursuit of its objectives
- Enhance its estate in whatever way is deemed necessary to achieve its objectives.
- Recruit and provide professional training for staff in pursuit of the objectives
- Through appropriate negotiations with the representative bodies, ensure that the contracts of working for staff are appropriate to achieve the objectives and at the same time accommodate the reasonable personal needs and welfare of staff.
- Establish policies, regulations and procedures which enable the University to achieve its objectives and responsibilities to meet legislative requirements.

4. The appointing processes for Governing Council

4.1 The process for the appointment or re-appointment of the Chair

4.1.1 The background

The process described below was devised and approved in 2007. Hitherto the chair was supposed to be elected annually but this was not the normal practice. The procedure was changed to an appointment process in 2008 and the Constitution was revised and approved in December 2008. The following principles and process were followed in 2010 and in 2017.

4.1.2 The Chair and Vice-Chair are appointed

The Chair and Vice-Chair are *appointed* to their respective positions. The Chair may either be appointed from the existing membership of Governing Council or directly to that position as a new independent member. The Vice-Chair is appointed through nomination by the Chair, agreed by Nominations Committee and approved by Governing Council.

NOTE: The styling of the role Chairman or Chair and Vice-Chairman or Vice-Chair is a matter for the individuals concerned. Their preference will be adopted and respected.

4.1.3 The maximum period for which a governor may serve as Chair

The year is defined as operating from 1st August to 31st July to coincide with the University's financial and academic year. The Chair of Governing Council is normally appointed for a period of three years. S/he may be re-appointed for a further period of office of three years. The maximum number of such periods of office is three, making a maximum period of tenure of **nine years**. The normal maximum period that a member may serve the Council is nine years [three periods of 3 years] but if a member is appointed Chair of Council, Vice-Chair of Council or Chair of the Further Education Governance Committee the clock is effectively reset to zero. Thus a member who is

appointed to any one of these three roles, may serve in that role for a further period additional to the normal maximum of nine years. This further period is subject to a re-appointment process every three years and so the governor may only continue if this is the wish of the Council.

In March 2010, Governing Council decided that it should set a maximum total period of service of **15 years**. This allows a member who is appointed to one of the three key positions in her/his final year of service as a governor, two terms of three years in the enhanced role. This restriction is designed to prevent a member serving an excessive period of time as a governor. Fifteen years is regarded as exceptional and the absolute maximum.

4.1.4 The Council may invite a willing Chair to continue

If the existing Chair is willing to continue for a second or third period as permitted above, then there is an opportunity for the Council to consider and endorse the continuation. There is a mechanism by which the Chair is informed whether the Council wishes them to continue to serve in that capacity. If the Council decides that it is necessary or desirable to elect a new Chair then the full appointment process is employed. Clearly, to avoid embarrassment on the part of the existing Chair and of the members of the Governing Council, it is advisable to obtain informal advice to test the opinion of governors in advance of any formal proposal to extend the role for a further period.

4.1.5 All independent members are entitled to declare an interest in serving as Chair

Only independent members of Council may be appointed as Chair. If the existing Chair indicates that s/he plans to retire from the position or Nominations Committee recommends the appointment of a new Chair then the process allows *any* independent member who wishes to be considered to apply to serve in this capacity.

4.1.6 The appointment process must respect the confidentiality of applications

The appointment process must operate in such a way that full confidentiality is accorded to those who apply. Only the identity of the successful applicant is made public.

4.1.7 The process should be conducted well in advance of the date of retirement

When possible, the process of appointment should commence before the final year of the term of office. The process should be concluded sufficiently early to permit a period of handover.

If the Chair decides that for personal reasons it is necessary to resign before the end of the current period of office, s/he is requested to give Nominations Committee as much notice as possible. If the Chair has ill-health and is unable to continue or dies in post then the current Vice-Chair becomes Acting Chair until a new Chair has been appointed. (Section 4.2)

4.1.8 The appointing process should be managed by Appointing Panel

If there is a need for a process to appoint a new Chair, then this process should be managed by an Appointing Panel established by Nominations Committee. That Committee cannot take on this role because there is a likelihood of members who are interested parties.

4.1.9 The process must be administered by a disinterested party

The process must be administered by a disinterested party. Normally, this will be the Clerk. The Clerk is expected to respect the full confidentiality of the parties concerned, to maintain a disinterested position with regard to the outcome and to ensure that the process is fair and equitable.

4.1.10 The appointing process

- (i) The Clerk contacts the Chair to ask informally whether s/he would be willing, if the Council is supportive, to continue for a further period. If the Chair has indicated a provisional willingness to continue subject to continuing Council support the Clerk will contact each member of Nominations Committee and ask if the member is supportive of the Chair continuing for a second or third period. Members of Nominations Committee will have a two week period to reflect and advise. If the response is unanimously positive, the Clerk will report this to the Nominations Committee which will then draw up, through the Clerk, a formal proposal that the Chair should be re-appointed for a further period of office. This proposal will then be considered by the full Governing Council. In the highly unlikely event of a vote all members of Governing Council will be entitled to vote.

If the Chair plans or expects to retire, or the response from the Nominations Committee is not unanimous, then the Clerk will organise a meeting of the Nominations Committee without the presence of the Chair. That Committee will be invited to make a recommendation to Governing Council as to whether the current Chair should be re-appointed or a full appointing process is required. If the Chair does not accept the recommendation of the Committee, or if the meeting is indecisive, then the Clerk will call a special meeting of the independent governors who will decide whether the Chair should be re-appointed or a full appointing process is required.

- (ii) If an appointing process is required, Nominations Committee will be asked to establish an **Appointing Panel** to manage and conduct the agreed appointing process. The Clerk will serve as secretary.

The Appointing Panel should comprise **five** members: the Vice-Chancellor together with four independent members, one of whom is appointed chair. With the exception of the Chair, members of the Nominations Committee are eligible to serve on the Appointing Panel on the understanding that by virtue of their responsibility and the clear conflict of interest they will not be eligible to apply for the vacant chairship. Nominations Committee may invite other independent governors to serve on the Appointing Panel. That Committee then reports on the appointing process to the Governing Council at the next meeting. Governing Council will be asked to approve the arrangements that have been put into place.

- (iii) Following the meeting of Governing Council, the Clerk arranges a preliminary meeting of the Appointing Panel. The purpose of the meeting is to give consideration as to whether there are potential internal candidates who are regarded as both suitable *and willing* to serve as Chair. The Chair of the Appointing Panel may ask the Clerk to contact individuals to find out if they would be interested in serving without any implication or understanding that this was an informal offer. The enquiries would be solely for the purpose of establishing the likely strength of the field. The Appointing Panel then holds a second meeting. If as a consequence of

the Clerk's enquiries the Appointing Panel believes that there is at least one highly suitable and willing current governor then the Appointing Panel will progress to a process of internal appointment. If the Appointing Panel believes that none of the current governors is both suitable and willing to serve as Chair, then it will conclude that it is necessary to make an external appointment. The Appointing Panel is authorised to take this decision but it should inform the current Chair of Council and the Nominations Committee through the Clerk.

- (iv) **The internal appointment process.** The Clerk writes to all eligible independent members of the Governing Council inviting any interested governor to submit an application for the consideration of the Appointing Panel. A copy of the job description for the Chair is attached. With the exception of the members of the Appointing Panel, all independent governors are eligible to apply.

The application should take the form of a statement of application setting out the reasons for suitability together with a *curriculum vitae* providing evidence of relevant experience. Applicants may consult the Vice-Chancellor, the current Chair or the Clerk regarding the expectations of the post holder. There is a three week period during which independent governors may submit their application. Applications are submitted to the Clerk.

- (v) **The external appointment process:** The Clerk prepares an advertisement to the satisfaction of the Chair of the Appointing Panel and the Vice-Chancellor. This is placed in suitable media. With the exception of the members of the Appointing Panel, all independent governors are eligible to apply. The job description for the Chair is available on the governance micro-site and can also be sent to enquirers on request.

The advertisement invites applications which should take the form of a statement of application setting out the reasons for suitability together with a *curriculum vitae* providing evidence of relevant experience. Applicants may consult the Vice-Chancellor, the current Chair or the Clerk regarding the expectations of the post holder.

- (vi) The Internal and external appointment processes. The Clerk acknowledges the applications and after the deadline date, sends the applications to the members of the Appointing Panel for consideration. The Appointing Panel meets to agree a short list for interview. The Appointing Panel may decide to hold more than one interview with the short listed applicants. Applicants should not meet one another at the time of interview. The Appointing Panel then arrives at its decision as to the recommendation for Chair of Governing Council. This recommendation is subject to the approval of Nominations Committee and Governing Council. The Clerk informs the applicants of the outcome of their application.
- (vii) The Appointing Panel submits the recommendation to the Nominations Committee providing detail of the process and giving reasons for the recommendation. However, the Appointing Panel should not reveal the identity of the unsuccessful applicants. Nominations Committee holds a business meeting to approve the recommendation. The Committee recommendation is then submitted to the next meeting of Governing Council.
- (viii) Governing Council meets to approve the recommendation of Nominations Committee. Following approval the successful applicant is known as the Chair-

designate. The Chair-designate is invited to nominate a Vice-Chair, subject to the approval of Nominations Committee and Governing Council. The current Vice-Chair may be eligible for nomination. The appointment of a new Chair does not necessarily require the appointment of a new Vice-Chair. The new Chair and the appointed Vice-Chair will commence their duties on the day set by the Governing Council.

Normally, the Chair-designate and the current Chair will identify a handover period.

4.2 The Vice-Chair of Governing Council

Council should normally appoint a Vice-Chair of Governing Council. This officer assists the Chair in the conduct of her/his duties and may deputise in the absence of the Chair. The Chair nominates the independent governor whom s/he wishes to serve as Vice-Chair. This selection is subject to the agreement of Nominations Committee and approval by the full Governing Council. The Vice-Chair is subject to re-appointment to that position every three years. The Chair may arrange for a change of Vice-Chair at any time, subject to the approval mechanism.

If the Chair is unable to continue her/his period of office for whatever reason and has to stand down with immediate effect, the Vice-Chair becomes Acting Chair and initiates the appointing process (Section 4.1) as soon as possible. In this process, the Vice-Chair may wish to be a candidate for the position as Chair. The 15 year maximum *total period of office as a governor* applies.

4.3 The Vice-Chancellor

The appointment of the Vice-Chancellor is the responsibility of the Governing Council. The Governing Council will establish a Selection Committee to advise the Governing Council on the appointment of a Vice-Chancellor. This will take place at a time determined by the Chair of Governing Council taking into account the circumstances relating to the departure of the current Vice-Chancellor.

The membership of the Selection Committee will comprise the Chair and Vice-Chair of Governing Council and three other members of the Governing Council including a staff and a student governor. There must be a majority of independent governors. The Chair may appoint one or more external advisers to assist the Selection Committee and the Director of Human Resources is also co-opted as an adviser. Advisers do not have voting rights. The Clerk to the Governing Council serves as Secretary.

The function of the Selection Committee is to recommend to Governing Council the name of the candidate who should replace the departing Vice-Chancellor. The duties of the Selection Committee include:

- (i) Deciding the key message to be communicated in the advertisement for the position and indicating where the advertisement should appear.
- (ii) Deciding whether or not to use recruitment or search consultants.
- (iii) Preparation of the job description and the person specification and the information to be sent to prospective and short-listed candidates.

- (iv) Agreeing on a plan for the selection process, including the stages, the assessment methods and the interview arrangements. The Selection Committee should consider which stakeholder groups should be consulted.
- (v) Scrutinising the applications received and identifying the applicants to be considered further at each stage of the process.
- (vi) Ensuring that the Governing Council and the University community is kept informed of progress of the selection process.

The decision on the final selection of the successful candidate should not take place without interviewing that person and obtaining the advice of an external adviser.

4.4 The Chancellor

The appointment of the Chancellor is the responsibility of the Governing Council in a process which is led by the Chair of Governing Council. The Chancellor has a period of office of five years in the first instance but this can be extended by mutual agreement. If the Chancellor indicates that s/he would like to stand down the Chair should inform the Governing Council and start the search process.

The following action points are recommended:

- (i) Nominations Committee hold a preliminary discussion to agree the details of the process
- (ii) Invite staff of the University and the Students' Union to offer their views on the desirable characteristics of the appointed person
- (iii) Hold an *informal* and *confidential* non-minuted discussion of the full Governing Council in which governors can seek to agree the characteristics sought and perhaps suggest possible candidates for further consideration.
- (iv) The Chair of Governing Council should be authorised to approach the preferred candidate.

The decision is approved by the Governing Council.

4.5 Independent governors including Church of England recommendation

In recognition of the historical contribution of the Church of England to the University, at least one Independent Governor is recommended by the Lord Bishop of Derby. If requested by the Council to do so, the Lord Bishop of Derby will put forward names he would recommend as additional Governors, although the Council will be under no obligation to appoint any such additional persons.

When there is a vacancy for an independent governor to be proposed by the Church of England, the Chair of Council will invite the Lord Bishop of Derby to make a recommendation. The recommended candidate is formally considered, normally including an interview. It is anticipated that recommended candidates will usually be successful but in the event that such a candidate is not appointed, the Lord Bishop is empowered to put forward further candidates until one is accepted by the Council.

Independent governors are *appointed* to membership of the Governing Council. There are numerous ways by which candidates for membership of the Governing Council may come forward for consideration for appointment. Some candidates apply directly to the University following advertisement or through their own volition.

Candidates for membership of Council are asked to submit a completed application form together with a copy of their *curriculum vitae*. They are then formally considered for suitability for the role by a designated panel of governors which normally interviews the candidate and makes a recommendation to Nominations Committee. Every candidate must demonstrate that s/he has the ability, aptitude, experience and commitment to serve as a governor. The Nominations Committee recommendation for appointment is formally approved by the Governing Council. If an independent governor becomes a student or a member of staff of the University, that person ceases to be an independent member but may continue in a different appropriate category of governor with the agreement of the Governing Council.

4.6 Staff governors

Staff governors are also *appointed* to membership of the Governing Council. There are two broad categories. In the first category, in response to an invitation to fill a vacancy, Academic Board nominates a short list of up to three recommended people. Nominations Committee makes arrangements for the consideration and interview of the people on the recommended short list and makes appointments to fill the vacancies.

In the second category, the Clerk invites staff of the University to submit application forms and *curriculum vitae* for competitive direct application. Governing Council membership includes academic and non-academic staff. Hence any invitation will clarify whether academic or non-academic staff [or both] may apply. Nominations Committee makes arrangements for the consideration and interview of a short list of applicants. The appointment is formally approved by the Governing Council.

4.7 Student governors

Governing Council accepts the two sabbatical officers nominated by the University of Derby Students' Union following the annual elections.

4.8 The Clerk to the Governing Council

The Clerk to the Governing Council and Company Secretary is appointed by the Governing Council. Normally, the Clerk will also have other significant senior management responsibilities at the University. The person appointed as Clerk is responsible to the Chair of Governing Council and the Vice-Chancellor in respect of the duties of Clerk and is responsible to the designated line-director for their other management functions. The appointment as Clerk is formally approved by the Governing Council. The appointment to other management functions is matter for the Vice-Chancellor.

4.9 The skills matrix

The Clerk maintains, on behalf of the Governing Council, a matrix of the professional skills and competencies held by members of Governing Council. This matrix contains information submitted and agreed by members of Council. The matrix is used to inform Council of the balance of professional skills across the governing body.

5. Job descriptions, benefits and periods of tenure of office

5.1 Chair of the Governing Council – job description

The Chair of the Governing Council is Pro-Chancellor of the University and has responsibility for strategic leadership of the governing body and ultimately to the stakeholders for its effectiveness. The Chair must be an *independent* governor. S/he is expected to liaise with the Vice-Chancellor of the University to bring effective co-ordination between governance and senior management. S/he is also expected to work closely with the Clerk to the Governing Council who has responsibility for organising the business of Council in accordance with the wishes of Council. As chair of meetings s/he is expected to promote efficient operation ensuring that members work together effectively and have confidence in the procedures laid down for the conduct of business

The Chair should take particular care that the governing body observes the principles of public life and that committees which play a central role in the proper conduct of the governing body's business report back appropriately.

Through leadership of the governing body the chair plays a key role in the business of the institution but should not be drawn into day-to-day executive management. It is the responsibility of the Chair of Governing Council to ensure not only that the governing body operates effectively but also that it deals with those issues which the governing body – and the governing body alone – needs to discuss. It is for the chair to ensure that lay or independent members of the governing do not become involved in the day-to-day executive management of the institution.

The chair must ensure a constructive and challenging working relationship with the executive head of the institution. The relationship should be mutually supportive and should recognise the separation and distinctiveness of each other's role, incorporating the checks and balances imposed by the different roles each has within the institution's constitution.

Specific tasks:

- (i) Chair the meetings of the Governing Council.
- (ii) Chair the meetings of the Nominations Committee
- (iii) Serve as a member of the Remuneration Committee, the Vice-Chair will Chair Remuneration Committee
- (iv) Serve as member of the Strategy, Finance and Planning Committee.
- (v) Serve as member of the Further Education Governance Committee.

- (vi) Ensure that Council and its committees are fully constituted with members and that any vacancies are filled as soon as possible.
- (vii) To conduct the process for the appointment of Vice-Chancellor and Chancellor as necessary.
- (viii) To conduct the process for the annual review of the remuneration of Senior Post Holders.
- (ix) To ensure that the Council fulfils its responsibilities as the Governing Body and that the Council is compliant with the Committee of University Chairs Code of practice for Governance (CUC 2014).
- (x) To ensure, with the help of the Clerk that the business of the Council and its committees is properly organised: namely that there is good notice of meetings and that papers are circulated well in advance. Also, accurate and informative minutes should be circulated to members as soon as possible after the meeting of the Council/Committee.
- (xi) To conduct annual reviews of the effectiveness of the Governing Council and to ensure, with the assistance of the Clerk, that any recommendations are implemented.
- (xii) To commission a major review of the effectiveness of Governing Council at least every five years.

The membership clock is reset when a governor becomes Chair unless the clock has been reset before. The Chair of Governing Council is appointed for a term of three years and may be re-appointed for further terms of office not exceeding a total period of nine years. The maximum period is subject to a maximum period of 15 years' service as a member of Governing Council. Thus a member who is appointed to Chair after nine years' service as a member may serve for up to two three-year terms as Chair.

5.2 Vice-Chair of Governing Council – job description

The Vice-Chair is a formally appointed position on Council. The Vice-Chair of Council advises and supports the Chair in the conduct of his/her duties and deputises for the Chair in the event of the absence of the Chair. The Vice-Chair is also Chair of Remuneration Committee, whilst the Chair is a member. This is to ensure a clear separation of the Chair from the evaluation and setting of the Vice-Chancellor/Executive remuneration.

If the Chair is unable to continue in that role, for whatever reason, the Vice-Chair becomes the Acting Chair until a new Chair has been appointed by due process. The Vice-Chair serves in this role for periods up to three years. The membership clock is reset on becoming Vice-Chair, unless it has already been reset. The Vice-Chair may be re-appointed to serve for up to nine years as Vice-Chair subject to a maximum of 15 years as a member of Governing Council.

5.3 The Vice-Chancellor

The Vice-Chancellor is Chief Executive of the Company with responsibility for the leadership and management of the University. The Vice-Chancellor reports to the Chair of Governing Council. Specific responsibilities in relation to Governing Council business include:

- Ensuring that decisions of the Governing Council are implemented through the Corporate Management Team.
- Initiating discussion and consultation with staff and appropriate committees or bodies regarding the future development of the University.
- In fulfilment of the duty as the designated officer under the HEFCE Financial Memorandum, alert the Governing Council if any action or policy under consideration would be incompatible with the terms of the Financial Memorandum.

5.4 The Chancellor

The Chancellor is the non-executive titular head of the University who normally presides at meetings of the University Court and on ceremonial occasions. S/he normally chairs the meetings of the University Court which take place three times each year. S/he also normally presides at the awards ceremonies which take place in Buxton, Derby and (occasionally) overseas. S/he is not a member of Governing Council or any of the committees of Council but s/he may be invited to take part in committees set up for special purposes. The position is honorary and is not remunerated.

5.5 The job description for governors

Members of the Governing Council are known as governors and are expected to have a deep intrinsic interest and commitment to promoting the benefits of further and higher education.

The principal tasks are as follows:

- (i) To attend the meetings of Governing Council and advise on educational character and academic direction and other strategic matters. The full list of the primary responsibilities of the Governing Council is set out in Section 2.
- (ii) To serve on one or more committee(s) of the Governing Council, if invited to do so by the Chair of the Governing Council. Each Committee meets three or four times each year.
- (iii) To promote good relations between the University and the private, public and voluntary organisations in the region.
- (iv) To participate in:
 - Meetings of the University Court which meets up to three times each year.
 - The residential strategy meeting with the Corporate Management Team and Academic Board held each year.
 - The annual Awards Ceremonies held each year.

- (v) To participate in induction and other development events which help to build an understanding and knowledge of and further and higher education in the context of the University.

The total commitment averages between ten and 20 days a year but is greater than this for those who take on the responsibility of chairing a committee. The governors may claim reimbursement of expenses incurred in the role of governor.

5.6 The periods of service

Independent governors are appointed for terms of office of up to three years. They may be re-appointed for two further terms of three years leading to a total of nine years of service. If they are appointed as Chair of FE Governance Committee, Chair of Council or Vice-Chair of Council, then the membership clock is reset. However, there is a *maximum total period* of service which is set at 15 years.

Staff governors have the same responsibilities as independent governors although there are some restrictions as to which committees they may serve. (See the terms of reference and composition for each committee.) Although staff governors are expected to give views on matters informed by their perspective and experience as members of staff, they are not expected to formally represent the views of staff in the manner of a staff representative. Staff governors normally serve **one** three-year term of office. However, Governing Council may invite a staff governor to serve a second term of up to three years if s/he is willing to continue. The total maximum possible period of service is six years. Staff governors cannot serve as Chair of Council or any committee of Council or Vice-Chair of Council.

5.7 Benefits of Members of Governing Council

The University may only confer benefits on governors for acting as a governor, if the benefit has been authorised by the Governing Council in accordance with the Articles of Association. The nature of benefits for independent governors is set out below.

5.7.1 For the purposes of Article 11 of the Articles of Association, the following are permitted:

- 5.7.1.1 the benefit described by Ordinance 5.7.3.1;
- 5.7.1.2 the benefit described by Ordinance 5.7.3.2 provided that the Governors follow the procedure and observe the conditions set out in Ordinance 5.7.3.3; or
- 5.7.1.3 any benefit authorised in writing by the Governing Council.

And in these Ordinances 5.7.1 to 5.7.4, benefit has the same meaning as Article 11 of the Articles of Association.

5.7.2 A Governor may enter into a contract for the supply of goods or services to the University where that is permitted in accordance with, and subject to the conditions in section 73A, of the Charities Act 1993.

5.7.3

- 5.7.3.1 A Governor may receive a benefit from the University in the capacity of a beneficiary of the University.
- 5.7.3.2 A Governor may be employed by the University other than for acting as a Governor.
- 5.7.3.3 A Governor may receive benefits for acting as a Governor provided the Governors have in addition to meeting the requirements of Ordinance 5.7.1:
- a) read considered and taken into account the published guidance of the Charity Commission (and of any other body which regulates the University) relating to the remuneration of charity trustees for acting as such;
 - b) resolved that the remuneration is clearly in the interests of the University that the Governor in question be awarded the remuneration in question; and
 - c) resolved after taking reasonable steps to identify and consider all other reasonably available options for recruiting or retaining a suitable candidate for the role of Governor, that offering the remuneration in question provides a significant and clear advantage over all the other options available.
- 5.7.3.4 A company or other legal entity of which a Governor is a member may receive fees, remuneration or other benefit in money or money's worth provided that the Governor holds no more than 1% of the issued capital or equivalent of that company or other legal entity.

5.7.4

5.7.4.1 The University and its Governors may only rely upon the authority provided by Ordinance 5.7.1 if each of the following conditions is satisfied:

- a) The remuneration or other sums paid to the Governor do not exceed an amount that is reasonable in all the circumstances.
- b) The conflicted Governor are absent from the part of any meeting at which there is discussion of:
 - (i) his or her employment or remuneration, or any matter concerning the contract or arrangement; or
 - (ii) his or her performance in the employment or office, or his or her performance of the contract; or

- (iii) any proposal to enter into any other contract or arrangement with him or her or to confer any benefit upon him or her that would be permitted under Ordinance 5.7.1;
 - (iv) if applicable, the matters described in Ordinance 5.7.1.3; or
 - (v) any other matter relating to a payment or the conferring of any benefit permitted by Ordinance 5.7.1.
- c) The conflicted Governors do not vote on any such matter and are not to be counted when calculating whether a quorum of Governors is present at the meeting.
 - d) The non-conflicted Governors are satisfied that it is in the interests of the University to employ or to contract with that Governor rather than with someone who is not a Governor. In reaching that decision the non-conflicted Governors must balance the advantage of employing a Governor against that disadvantages of doing so (especially the loss of the Governor's services as a result of dealing with the Governor's conflict of interest).
 - e) The reason for their decision is recorded by the non-conflicted Governors.
 - f) A majority of the Governors then in office are non-conflicted.
 - g) If a Governor receives remuneration it shall be shall be disclosed in the accounts at least to the extent of any other related party transaction.

5.7.5 In sub-Ordinances 5.7.1 to 5.7.2:

5.7.5.1 The employment or remuneration of a Governor includes the engagement or remuneration of any firm or company in which the Governor is:

- a) a partner;
- b) an employee;
- c) a consultant;
- d) a director; or
- e) a shareholder or other owner, unless the Governor holds less than 1% of the issued capital or equivalent

5.7.5.2 "University" shall include any company in which the University:

- a) holds more than 50% of the shares; or
- b) controls more than 50% of the voting rights attached to the shares; or
- c) has the right to appoint one or more directors to the Board of the company.

5.7.5.3 "Governor" shall include any child, parent, grandchild, grandparent, brother, sister or spouse of the Governor or any person living with the Governor as his or her partner.

5.7.5.4 a "conflicted Governor" is a Governor who has received, is entitled to receive or is currently receiving remuneration under these Ordinances 5.7.1 to 5.7.6. A conflicted Governor also includes a Governor who has received financial benefits described in Ordinance 5.7.1 but before these Ordinances 5.7.1 to 5.7.6 came into force.

5.7.5.5 a "non-conflicted Governor" is a Governor who is not a conflicted Governor.

5.7.6 These Ordinances 5.7.1 to 5.7.6 may not be amended without the express prior consent of the principal charitable regulator of the University.

5.8 The Clerk to the Governing Council and Company Secretary

The Clerk to the Governing Council acts as secretary to the Council. S/he assists the Chair in organising the agendas for meetings and recording accurate and informative minutes. The Clerk must ensure that all Council papers are properly kept and archived. The Clerk is expected to assist in the recruitment of new governors and organise the induction. The Clerk is also expected to provide ongoing professional development in governance for governors.

The Clerk also serves as Company Secretary and so must arrange for records of membership of directors and the audited accounts to be lodged as required with Companies House. The Clerk must ensure that members of Council register their interests; any related party interests and affirm that they are not aware of any instances of fraud at the University. The Clerk may be asked to assist on other matters relating to governance on an occasional basis.

6. The dismissal of governors, the Vice-Chancellor or Clerk

6.1 Alleged misconduct by governors

If the Chair or Vice Chair, Vice-Chancellor or Clerk receives a written report alleging that a member of Governing Council may be guilty of misconduct and has breached the inherent trust placed in governors in a significant way, then the Chair (or Vice-Chair in the event of the allegation relating to the Chair) may implement the procedure for investigation. If the allegation is upheld this may lead to dismissal. If the governor is subject to a criminal investigation, any investigation on the part of the Council is held until

the legal process has been completed. The procedure followed is the same as that set out below in relation to the Vice-Chancellor and Clerk.

6.2 Alleged misconduct by the Vice-Chancellor or Clerk

The general principles regarding the discipline of members of staff are contained within the University's Staff Disciplinary Policy and its associated Staff Disciplinary Procedures. However, while these procedures are applicable to the majority of staff, separate arrangements are required for the fair and legal treatment of the Vice-Chancellor and Clerk to the Governing Council (the Post Holders) who are appointed by the Governing Council.

6.3 The right to suspend

6.3.1 Where the Chair, or in his/her absence the Vice Chair of the Governing Council, determines that a particular act or omission may constitute a dismissal offence, he/she may decide that the Post Holder be suspended on full pay pending the outcome of a full investigation and determination of the matter. A Governor may be suspended from Council. This decision will be confirmed in writing, giving reasons for the suspension and outlining the conditions which will apply during the period of suspension.

6.3.2 During the period of suspension, the Post Holder/Governor must not without prior approval, enter University premises, contact colleagues or students, undertake any work or breach their duty of confidentiality, other than to discuss their case with their advisor.

6.4 Investigation

6.4.1 The Chair may request one or more Independent Governors to conduct an investigation into the alleged breach(s) of discipline. The Chair may also appoint an appropriate person to assist the Independent Governors in their investigation.

6.4.2 The investigators will be given reasonable access to the Post Holder/Governor and any other witnesses or documents pertaining to the matter in pursuit of their investigations and may seek expert specialist advice if deemed appropriate.

6.4.3 The investigators will prepare a written report setting out the facts of the case which they believe should be taken into account in the determination of the matter. It should avoid making any recommendations with regard to what action should be taken

6.5 Misconduct and dismissal

6.5.1 On receipt of the Independent Governor's report, the Chair will consider whether the findings constitute grounds for formal disciplinary action to be taken against the Post Holder/Governor. If so minded, the Chair will appoint a Special Committee made up of three Independent Governors, (to include the Chair of the Finance, Employment and General Purposes Committee or Chair of Audit and Risk Committee, who will chair the hearing,) to hear the case.

- 6.5.2 The Chair of Governors will appoint an appropriate person to act as clerk to the Special Committee.
- 6.5.3 The Special Committee will, having taken proper advice, determine on a case by case basis how they will conduct the Hearing
- 6.5.4 As the potential impact of the Special Committee's judgement on the reputation and professional standing of the Post Holder/Governor may be considerable, he/she may be accompanied by a friend from outside the University or exceptionally in this instance, he/she may arrange to be represented by a legal advisor. Where the Post Holder/Governor exercises this right to be legally represented at this stage, the Special Committee may appoint its own legal advisor to act in a purely advisory capacity and not take part in any judgement that is made.
- 6.5.5 Should the Post Holder/Governor decide not to attend the hearing, the Special Committee may proceed in his/her absence, considering any written submissions that have been made.
- 6.5.6 Copies of documents and witness statements which are to be relied upon by either side in the Hearing will be circulated to all parties no less than five working days before the hearing is scheduled to take place. It will be the responsibility of the Chair of Governors to present the case for dismissal.
- 6.5.7 The Post Holder/Governor or their representative will be given the opportunity to respond to the allegations and present any evidence or call witnesses in support of their defence.
- 6.5.8 The decision of the Special Committee will be notified in writing within 10 working days of the Hearing.

6.6. Right of appeal

- 6.6.1 The Post Holder/Governor has the right to appeal any finding against him/her in writing to the Chair of Governors within 10 working days of receipt of the decision. The Post Holder should outline the grounds of their appeal against the following points:
- Any substantial procedural errors what could undermine the fairness of the judgement made against them.
 - Any errors of fact which the decision had relied upon.
 - On the basis of the evidence that had been produced the decision was perverse
 - Significant new evidence which had not previously been available for the Special Committee to consider.
- 6.6.2 The appeal will be considered by an Appeal Panel of five Independent Governors who have not previously had any connection with this case and will

be chaired by the Vice-Chair of Governors or in their absence the Vice-Chair, the Chair of one of the Committees of Governing Council.

- 6.6.3 The Post Holder/Governor will continue to have the same rights of representation.
- 6.6.4 The Post Holder/Governor will have the opportunity to present their case either in writing or orally.
- 6.6.5 The Chair of the Special Committee that had decided on the disciplinary action will present a report on why they had reached their judgement on the evidence they had heard.
- 6.6.6 The Appeal Group will adjourn to consider the matter and reach a judgement.
- 6.6.7 The decision of the Appeals Group will be final and will be communicated to the Post Holder/Governor within 10 working days of the hearing.

7. Terms of Reference and Composition of the Committees

7.1 Strategy, Finance and Planning Committee

7.1.1 Terms of Reference

The Strategy, Finance and Planning Committee advises Governing Council on matters relating to strategy, financial performance, planning, employment, safeguarding, equality and diversity and corporate responsibility of the members of the University Group. More specifically SFP is expected to:

General

- (a) Consider and advise on proposed corporate strategy and planning for the University and the University Group.
- (b) Consider the financial performance of the University and the University Group;
- (c) Consider the recognition, assessment and management of corporate risks;
- (d) Advise the Council on safeguarding, equality and diversity and environmental legislative requirements.

Finance and Planning

- (a) Consider and recommend to Council the annual budget for the University and the University Group.
- (b) Monitor the financial performance of the University and the University Group through consideration of the year-to-date and year-end management accounts and financial forecasts in relation to the agreed budget;
- (c) To approve treasury policy and investment strategy and to monitor investment performance.
- (d) To ensure that the University and University Group remain solvent;
- (e) To approve expenditure on major capital items and other items as permitted by the financial regulations or as powers delegated to SFP by the Council in accordance with the University's financial regulations;
- (f) To consider and approve amendments to the financial regulations including authorisation limits.

Commercial

- (a) Approve the establishment of major external operations and to oversee their conduct and financial performance;
- (b) Advise Council regarding the performance of wholly owned subsidiaries of the University as an integral part of the University Group and to approve the establishment of associated businesses of the University and to oversee their conduct and performance.

Human Resources

- (a) Consider and agree the human resources strategy and monitor the effectiveness of the University's management of HR through the performance management framework;
- (b) Advise the Council regarding staffing policies, procedures and working arrangements;
- (c) Advise the Council on the affordability of pay and remuneration arrangements for staff (*except those covered by the Nomination & Remuneration Committee*);
- (d) Review information relating to human resource, employment legislation and industrial relations;

University estates

- (a) Consider and approve proposed strategy relating to the planned development of the estates.
- (b) Monitor and advise Council regarding progress in the implementation of estates plans.

7.1.2 Composition: the membership shall include:

- (i) An independent governor appointed as Chair of the Committee
- (ii) In addition, at least three governors including the Chair of Governing Council, the majority of whom must be independent
- (iii) The Vice-Chancellor

Members of SFP are not permitted to serve on Audit and Risk Committee while they serve on SFP.

7.1.3 Officers in attendance and quorum

The senior managers in attendance are nominated by the Vice-Chancellor subject to agreement by the Chair. Quorum is three members. SFP is expected to meet at least **four** times per year.

7.2 Audit and Risk Committee

7.2.1 Terms of Reference

Audit and Risk Committee is responsible for giving the Governing Body assurance that the University has governance processes in place to ensure that the University meets its corporate objectives. This overall purpose involves seeking assurances about the internal control mechanisms in existence, the underlying data decisions are based on, and challenging the use of resources to ensure that they are used as effectively as

possible. More specifically, the Audit and Risk Committee is expected to undertake the following:

Internal control

- (a) Review the internal financial control systems
- (b) Review the procedures for detecting fraud and ensure that staff are able to raise concerns about possible improprieties
- (c) Review management's and internal auditor's reports on the effectiveness of the systems for internal financial control, financial reporting, risk management and monitor the integrity of internal financial controls.
- (d) Prepare an annual report.
- (e) Commission and examine reports on the relative efficiency in the management use of University resource in carrying out its activities and responsibilities.
- (f) Ensure that the information and data which the University provides for external bodies is accurate.
- (g) Conduct an annual review of the declarations of interest, any related party transactions and the register of gifts reported by the members of the Governing Council and the members of the Corporate Management Team.

Risk Management

- (a) Review the risk management system.

Internal Audit

- (a) Appoint the internal auditors and determine the nature and scope of their work. (And if necessary, dismiss the internal auditors.)
- (b) Approve the annual internal audit programme recommended by the Executive.
- (c) Receive reports on the results of internal audit work on a periodic basis and review and monitor management's responsiveness to the internal audit findings and recommendations.
- (d) Monitor and assess the role and effectiveness of the internal auditors
- (e) Consider and approve an annual report prepared by the internal auditors.

External audit

- (a) Consider and agree the year-end accounts for the University and the University Group.
- (b) Recommend to the Governing Council the appointment, reappointment [or removal] of the external auditors for approval at the Annual General meeting
- (c) Recommend the terms of the remuneration of the external auditors
- (d) Monitor the external auditor's independence, objectivity and effectiveness
- (e) Develop a policy on the engagement of the external auditor to supply non-audit services which ensures that the independence and objectivity of the external auditors is not impaired
- (f) Review with the external auditors the findings of their work including any major issues that have arisen and been resolved during the course of the audit and those issues which are unresolved; key accounting and audit judgements; and the levels of errors identified during the audit. The Committee should obtain explanations from management and from external auditors, where necessary, as to why errors might remain unadjusted

Best Value

- (a) Commission and examine reports on the relative efficiency in the management use of University resource in carrying out its activities and responsibilities. Including comparison with other institutions.

Non-financial quality management

- (a) Have oversight of the University's Academic Quality measurement processes
- (b) Receive details annually of the level of complaints, including whistleblowing incidents
- (c) Ensure compliance with the HEFCE Audit Code of Practice, FE funding body audit requirements and with national standards of audit practice
- (d) Undertake an annual assessment of the effectiveness of the external auditors and make any recommendations, as necessary, to the Governing Council
- (e) Consider any periodic reports of audits conducted by HEFCE auditors
- (f) Consider the implications of any relevant reports from the National Audit Office and HEFCE.

7.2.2 Composition

Audit and Risk Committee comprises at least four independent governors none of whom shall serve as a member of the Strategy, Finance and Planning Committee. At least one member of the Committee should have recent and relevant financial experience.

7.2.3 Officers in attendance and quorum

The Vice-Chancellor and the Finance Director attend. The Vice-Chancellor may also ask other senior managers to be in attendance subject to the agreement of the Chair. Representatives of the Internal and External Audit Services also attend the meetings. Quorum is **two** members present. The Audit and Risk Committee is expected to meet **four** times each year. The internal or external auditors may request an extraordinary meeting if they consider it necessary.

7.2.4 Annual meeting with the auditors

The Audit and Risk Committee should meet with the internal and external auditors at least once each year without any members of the Executive or the Clerk, being present.

7.2.5 The Annual Report of Audit and Risk Committee

The Committee is required to submit an Annual Report to Governing Council in the autumn following the audit of the Annual Accounts. The report must include a statement of assurance regarding management effectiveness and the accuracy of information provided for external funding bodies. The approved report is sent to the HEFCE together with the Annual Accounts and any further documentation required by HEFCE.

7.2.6 The authority to seek information

The Audit and Risk Committee is authorised by the Governing Council to seek any information that it requires from any employee. All employees are expected to co-operate with any request made by the Committee. In consultation with the Chair of Governing Council or the Clerk, the Committee may ask non-members with relevant expertise and responsibilities to attend specific meetings.

The Committee is also authorised by the Governing Council to obtain external legal or independent professional advice. External advisors may also attend meetings of the Committee if required. Any prospective expenditure should have the prior approval of the Chair of the Governing Council to the effect that the expenditure is both reasonable and acceptable.

7.3 Further Education Governance Committee

Terms of Reference, Composition and membership

Introduction

The Further Education Governance Committee is one of four standing committees of the Governing Council of the University of Derby. The Committee is responsible for having oversight of the quality of teaching and learning within the FE Division of the University of Derby. FE Governance Committee reports to Governing Council on educational character, FE strategy and sustainability and the Effectiveness of FE management. The Committee is expected to promote a challenging, stretching and worthwhile education in which students attain the highest standards of which they are capable. The Governing Council holds ultimate responsibility for all University governance matters.

The FE Division is an integral part of the University of Derby and reports directly to the University Executive. It currently operates as a single College from campuses in Buxton, Leek and Derby. The Principal responsible for the leadership and management of the division reports to the member of the University Executive who has the responsibility under the leadership of the Vice-Chancellor for all activities of the University. Performance of the FE division against its business plan and strategies and overall management is overseen through the corporate planning and annual monitoring processes.

The FE Governance Committee was re-constituted following the merger of Leek College of Further Education and School of Art with the University on 1st August 2012.

7.3.2 Terms of Reference

The function of the FE Governance Committee is to oversee strategy for the growth of the FE Division within the University of Derby. The Committee is expected to advise the Governing Council on the quality of the learning environment and the performance of the students. More specifically, the FE Governance Committee is expected to undertake the following.

- (a) Advise Governing Council regarding the educational character and strategies for the delivery of a further education curriculum. The Committee is expected to promote the highest standards in teaching and learning and the overall portfolio of programmes on offer. It should ensure that the portfolio is proactively developed in collaboration where appropriate with other providers in the region.
- (b) Monitor the enhancement of quality in terms of staff skills, professional development*, accommodation*, learning resources, IT systems* and administrative support and ensure that teaching, learning and assessment is of the highest quality. (*provided by the University)

- (c) Compare the performance of students in terms of attendance, retention, achievement, success, value-added and progression/destination with national comparators.
- (d) Monitor and evaluate the College student and stakeholder experience through formal surveys, informal feedback mechanisms, compliments, complaints and through informal personal interactions with students.
- (e) Ensure that the values of the University pervade the life of the College community and that, in particular, equality and diversity are promoted and valued highly
- (f) Promote the pastoral needs of students and ensure that the University fulfils its responsibility for protecting and promoting the health, safety and well-being of its students [safeguarding], and in particular minors and vulnerable adults. Ensure the College and University complies with the FE requirement of its Prevent Duties.
- (g) Maintain an oversight of the financial performance and risk management arrangements of the College ensuring that the use of resource is effective and efficient, providing optimum value for money.
- (h) Monitor the formulation and implementation of strategies for marketing, publicity, student recruitment and applications ensuring that the College brand is widely regarded as attractive to potential students and other stakeholders.
- (i) Monitor the relationship and the contracts with the funding bodies, ensuring that the institution is maximising opportunities for growth and student enrolment.
- (j) Ensure that there is full awareness of the requirements of statutory regulatory bodies and that the College management responds appropriately to the outcomes of external inspection and is at all times 'inspection ready'.
- (k) Take on the role of passionate ambassador supporting and encouraging engagement with employers and other external stakeholders to promote the interests of the College and its students.

Link members:

There are three link members of the FE Governance Committee. The role of a link member is to obtain a closer understanding of the provision and the issues, thereby assisting the Committee in the formulation of its advice to the Governing Council. The link members also give the FE Governance Committee more visibility.

Link member for Safeguarding and Equality and Diversity

Link member for Quality

Link member for Curriculum

Link member for Employer Engagement

7.3.3 Composition (17, total 16 votes^s)

- Four [independent] members of the Governing Council
- At least five independent members by invitation of the Governing Council
- The Vice-Chancellor
- The Principal, Buxton and Leek College

- Up to three members of staff (at least 1 teaching Further Education staff member)
- The UDSU President
- Two Further Education student representatives, elected by UDSU (*one vote*)

**Independent signifies that the member of the Committee is not employed or are current students of the University. There are two categories: (i) independent governors who are members of the Governing Council and (ii) independent members who are members of the Committee by special invitation.*

Quorum at all meetings is 50% of the members with a *majority* being independent. FE Governance Committee will normally meet **at least four** times each year.

[Revised 6th November 2012, 7th December 2012, 7th January 2013, 21st February 2013, 5th March 2013, 19th March and 20th March 2013. Agreed by FE Governance Committee on 19th March 2013. Agreed by Governing Council 29th January, 8th July and 21st October 2016.]

7.4 Nominations Committee and Remuneration Committee

7.4.1 Terms of Reference

The Nominations and Remuneration Committee will act as two separate Committees with shared membership. Chair of Council will Chair the Nominations Committee and the Vice-Chair will Chair the Remuneration Committee, to ensure a transparent separation between the review and evaluation of the remuneration of the Vice-Chancellor, undertaken by the Chair.

The function of the Nominations Committee is to advise the Governing Council on the appointment of the Chancellor, the Chair of Governing Council, the Vice-Chancellor, governors, chairs of Council committees, members of the University Court and the Clerk to the Governing Council.

The Governing Council has **delegated** to Remuneration Committee the responsibility for determining the salaries, benefits and other terms and conditions of service (and where appropriate - severance payments) of the members of the Executive and the Clerk to the Governing Council who is also the University Secretary and Registrar.

Remuneration Committee is required to report the outcomes of its deliberations on the remuneration of these personnel to a meeting of the Governing Council each year.

7.4.2 Composition

- The Chair of the Governing Council who will Chair Nominations Committee
- The Vice-Chair of the Governing Council who will Chair Remuneration Committee
- The Chair of Strategy, Finance and Planning Committee
- The Chair of Audit and Risk Committee
- The Chair of Further, Education Governance Committee
- The Vice-Chancellor
- President UDSU
- Staff Representative, Governing Council

Total eight members

In attendance: Nominations and remuneration matters – Clerk to the Governing Council and University Secretary & Registrar
Remuneration matters – the Director - Human Resources

7.4.3 Special notes

1. The Vice-Chancellor withdraws when her/his remuneration is under discussion.
2. The Clerk to the Governing Council and University Secretary & Registrar is secretary to the Nominations and Remuneration Committees. The Clerk withdraws from the meeting when her/his remuneration is under discussion

Quorum is **four** members present

Nominations Committee normally meets **at least twice** each year, whilst Remuneration Committee has an annual meeting.

8. Authority for approval of purchase and procurement

University managers have powers for the authorisation of purchases and procurement. These powers are subject to specific limits which are set down in the Financial Regulations. The Regulations should be consulted for the actual limits that apply at each management level at a particular time. The highest limits of authority are held by the Vice-Chancellor and Finance Director. Expenditure above these limits must be approved by Strategy, Finance and Planning Committee. SFPC and Governing Council may delegate the power to authorise expenditure to the Vice-Chancellor and Finance Director for specified purposes and within specified limits.

9. Delegation of powers from Governing Council to the Committees

9.1 The powers that Governing Council is permitted to delegate

The responsibilities of the Governing Council are set out in Section 2. Governing Council is permitted to delegate certain of its functions and powers to committees of Council, the Chair of Governing Council and the Vice-Chancellor. The powers which are delegated by the Governing Council to the committees of Council are set out in the formal terms of reference for each committee in Sections 9.2 to 9.6. With the exception of the powers listed below, other specific task-related powers may be formally delegated to Committees of Council by agreement at a meeting of Council. Thus in the exercise of delegated functions, committees and individuals must comply with the Articles of Association, these Ordinances and relevant University policies and procedures. The delegated functions to committees are subject to review by Governing Council.

However, in accordance with the Articles of Association, Clauses 10.1 to 10.4 set out below, Governing Council is not permitted to delegate the following powers.

- (i) 10.1: The determination of the character and mission of the University, including the determination of the academic year of the University and the appointment and the dismissal of the Vice-Chancellor;

- (ii) 10.2: The responsibility for ensuring the solvency of the University and for safeguarding its assets, including the appointment of auditors, the establishment of an audit committee and the approval of the University's annual audited accounts;
- (iii) 10.3: The making of, alteration, amendment or addition to these Articles, subject always to the prior approval of the Privy Council; or
- (iv) 10.4: The approval of procedures for the suspension and dismissal of staff and the suspension and expulsion of students.

9.2 Strategy, Finance and Planning Committee

Council formally delegates the following powers of authority to SFPC:

- (i) Approval of the treasury management policy and investment strategy
- (ii) Approve the establishment of major external operations and associated businesses of the University and to oversee their conduct and financial performance
- (iii) Approval of recommendations concerning expenditure on major capital items and other items in accordance with the University's financial regulations

Governing Council may delegate the following specific powers of authority to SFP:

- (i) Approval of major items of capital expenditure.
- (ii) Approve recommendations of the Tender Panel for contracts with a value in excess of the threshold figures set down in the current *Procurement Policy and Procedures Document*.
- (iii) Approval to dispose of estates assets with an expected disposal value of over the threshold figure set down in the current *Procedure for the disposal of estates assets*.

9.3 Audit and Risk Committee

Council formally delegates the following powers of authority to Audit and Risk Committee:

- (i) The Committee has powers to commission audit reports from the Internal Audit Service
- (ii) The Committee has powers to approve audit reports and reports on value for money or best value provided by University services or activities

Governing Council may delegate the following specific powers to AR Committee: none identified.

9.4 Further Education Governance Committee

Governing Council has delegated the following specific powers to FEGC Committee: none currently identified.

9.5 Remuneration Committee

Council formally delegates the following powers of authority to Remuneration Committee

- (i) To approve the remuneration of the members of the Executive and the Clerk to the Governing Council.

Governing Council may delegate the following specific powers to Nominations Committee: none currently identified.

9.6 Honorary Awards Committee *(NOTE: This is a committee of Academic Board which is jointly composed of members of Academic Board and Governing Council)*

This Committee is empowered to

- (i) Decide the conferment of individual honorary awards

Further specific powers of authority which Academic Board may delegate to the Honorary Awards Committee: none currently identified.

9.7 The process of delegation

9.7.1 Governing Council

Governing Council may delegate its powers of approval in the following circumstances.

- (i) **Approval is subject to receipt of further unequivocal information:** If the Governing Council is satisfied that there is agreement *in principle* to an approval but that further unequivocal information is required before a final decision is taken then the Governing Council may authorise the Chair of Governing Council **and** the Chair of the [appropriate] Committee to take the decision.

If, when the further information is provided, the Chair of Council and Chair of Committee are **not** satisfied that the criteria for approval have been met, they must refer the matter back to the full Governing Council.

- (ii) **Approval is subject to receipt of a further body of information:** If the Governing Council is satisfied that there is agreement *in principle* to an approval but that a further body of information (eg a detailed plan) is required, then it may formally delegate decision making powers on the *specific matter* to the appropriate Committee of Governing Council. This means that the named Committee must meet to consider the further information before reaching its conclusion. Governing Council should ensure that the Committee is aware of the criteria that it should apply in coming to a decision to authorise approval.

If on consideration of the body of information, the Committee is **not** satisfied that the criteria set by the Governing Council have been met, the matter must be referred back to the full Governing Council.

- (iii) **Recording the process:** The Governing Council, Committees of Council and the Chairs concerned must keep a full record of the process. This includes the receipt of the further information provided, the considerations of that information and the basis for the decision to approve or refer. The records should be kept by the Clerk and

submitted to the Governing Council and the relevant Committee of Council at their next meeting.

9.7.2 Committees of Governing Council

A Committee of Governing Council may delegate its powers of approval as follows:

- (i) **Approval is subject to further information:** If the Committee is satisfied *in principle* with the information provided concerning an approval but believes that further unequivocal information is required, the Committee may authorise the Chair of the Committee advised by the Vice-Chancellor or a designated member of the Executive to take a final decision on receipt of the further information. If on receipt of that further information, the Chair is not satisfied that the criteria have been met, s/he should refer the matter back to the Committee.
- (ii) **Recording the process:** The Chair of Committee must make a record of the process including the receipt of the further information provided, the considerations of that further information and the basis for the decision. The records should be kept by the Clerk and submitted to the Committee at the next meeting.

10. The proceedings of Council and its Committees

10.1 The quorum for Governing Council and its Committees

The quorum for meetings of Governing Council and the committees of Council is normally at least 50% of the membership and there must be a majority of independent members present. In the case of a committee with co-opted independent members, these count as independent members. If a meeting is not quorate, this situation must be formally recorded and no formal business can be conducted and no decisions taken (Articles of Association, Clause 31). The written record of an inquorate discussion meeting is informal and has the status of *notes*.

In the event of an urgent matter, the governors present may agree on the decision that they are minded to take and ask the Clerk to contact the absent governors for their written agreement. If this correspondence process leads to a clear majority view, then the decision may be taken and the Clerk should confirm the decision with members in writing. Alternatively, if there are a number of urgent items of business, the Chair may ask the Clerk to re-schedule the meeting. The Clerk must ensure that there is at least 14 clear days' notice for the re-scheduled meeting of Council or a committee of Council.

10.2 Calling special meetings of Governing Council and its Committees

10.2.1 Governing Council

The Chair of Governing Council, Vice-Chair of Governing Council or any six governors may instruct the Clerk to summon a special meeting of Council. In the case that the request originates from a number of governors the request must be in writing, be signed by at least six governors and specify the business to be transacted. The Clerk must ensure that there is at least 14 clear days' notice for a special meeting of Council. The Clerk should use the method of communication acceptable to each governor. It will then

be assumed that the communication has been received within 48 hours of despatch (Articles of Association, Clauses 36 and 37).

10.2.2 Committees of Council

The Chair of Governing Council, Vice-Chair of Governing Council or Chair of the Committee may instruct the Clerk to summon a special meeting of a Committee of Council. The Clerk must ensure that there is at least 14 clear days' notice for a special meeting of a Committee.

10.3 The presentation of agenda papers

Agenda papers should normally be circulated to members at least seven days before the scheduled meeting. Normally, every item should have a paper. The Council or Committee may accept the receipt of late papers providing members are satisfied that the late circulation is for a valid and acceptable reason. Conversely, members may refuse to consider late papers if the reason given is deemed unsatisfactory. Normally, each item has a cover sheet which sets the context of the item of business and indicates the action required. Executive reports (two pages), standard reports (up to six pages) and important reports are circulated as hard copy. Other longer reports are located in the Governors website folder together with all the items on the agenda. The Clerk may exercise discretion in the strict application of these general arrangements.

10.4 Confidentiality

Normally, the minutes of Governing Council and its committees, with the exception of remuneration matters are not confidential. However, Council or a Committee may decide that a minute contains information which might adversely affect the operation of the University if the information were released to the public. In this situation, the section in the full minutes should be clearly marked confidential. Edited versions of the minutes, with confidential material removed, may be placed on the University website. Governors and those attending meetings must respect any confidentiality. Edited versions of the minutes should be clearly marked as such.

The minutes of meetings of the Governing Council must be made accessible on the University website after they have been confirmed.

10.5 Voting procedure

In the event of an item of business which requires a decision but the Chair has been unable to reach a clear consensus view through full discussion, the chair may decide that it is necessary to take the matter to a vote. The Chair invites one of the governors present to propose a proposal which can serve as the subject of the vote. S/he then invites a seconder for the proposal. S/he then confirms with Council/Committee that the wording of the proposal is acceptable as the subject of the vote and incorporates any amendments that are agreed.

The matter now proceeds to a vote carried out by show of hands for and against the proposals and any abstentions. The Chair may vote and may also make a casting vote in the event of a tie. In the event of a highly important and contentious decision the Chair may decide on a recorded vote in which the vote of every governor is recorded in the minutes. Governors must be present in order to vote at a meeting.

10.6 Process for Chair's Action

The following provides a process for the Chair and the Chairs of the sub-committees to pursue a process of virtual consideration of an item, which requires approval before the next scheduled meeting of Council.

The process approved by Governing Council in October 2016 is set out below:

- (i) Where possible the requirement to invoke this process should be raised at a meeting of Governing Council, otherwise, by email to governors
- (ii) The virtual approval panel will comprise of the Chair of Governing Council, the Vice-Chair of Governing Council and the Chairs of the sub-committees
- (iii) A report from the relevant Executive member is sent to the panel by the Clerk, detailing the issue to be considered and the reason why the decision cannot wait until the next scheduled meeting of the Governing Council
- (iv) The Clerk will specify a date for response from the panel members in the email
- (v) The panel can raise questions via the Clerk, who will coordinate the response from the Executive member and communicate the information to the panel
- (vi) The matter will be approved as long as all panel members are in agreement by the date for response.
- (vii) The Clerk will inform the relevant Executive member once the approval has been agreed and notify the outcome to the next available meeting of the Governing Council.

11. Policy on conflict of interest

11.1 Introduction and definitions

This Section sets out the University's policy on conflict of interest which was developed to accord with the Companies Act 2006. The purpose of the policy is to protect the directors and the company from possible accusations of impropriety and ensure broad public trust and confidence in the University of Derby. The University recognises that in order to ensure the highest standards in the process of governance, members of the Governing Council and the members of the Corporate Management Team should have a sound understanding of the policy and that this is applied effectively.

This document offers some preliminary definitions and then sets out the University policy on conflict of interest.

Preliminary definitions:

11.2 Declaration of interest

A declaration of interest is defined as the oral or written disclosure by a governor that the subject matter under discussion, or shortly to be discussed at a meeting of governors,

places the governor in a position where there is a risk of a conflict of interest. Audit and Risk Committee should conduct an annual review of the declarations of interest.

Members of staff who serve as governors and members of the University of Derby Students' Union are understood to have a *standing interest* relating to their employed role and do not need to make a further disclosure of this interest.

11.3 Conflict of interest

A conflict of interest is the situation where a governor finds his/her view on a matter of governance business is compromised as a result of a direct or indirect personal interest in the matter or as a result of a connection to another party involved in the business matter. Examples of conflict of interest are set out below.

- Direct financial gain or benefit to the governor from;
 - award of a contract to another organisation in which the governor has an interest and from which a governor could receive a financial benefit.
 - employment of a governor in a separate post within the University.
- Indirect financial gain, such as employment of a spouse by the University.
- Non-financial gain, such as when a user of the University's services is also a governor
- Conflict of loyalties, such as where a governor is appointed by a local authority or by one of the University's funding bodies.
- Any interest or activity which might conflict with University's policies [eg corporate ethics policy] or might otherwise cause conflict (eg where two governors are professional advisor and client respectively).
- Interests in an organisation with which the University has a relationship.
- Non-financial gifts which could be interpreted as inducements, such as hospitality from a supplier tendering for work with the University. In these circumstances, gifts such as entertainment should be disclosed through the Clerk to the Governing Council.

11.4 The general principle

All governors have a legal obligation to act in the best interests of the University. Conflicts of interest may arise where an individual's personal interests or connections to third parties conflict with the interests of the University. Such conflicts can inhibit free and impartial discussion, result in decisions that are not in the best interests of the University and risk the impression that the University has not acted transparently.

If a governor declares an interest, the Governing Council has to decide which of the following options is appropriate in compliance with the Companies Act 2006 [implemented October 2008].

- (i) To allow the governor concerned to still participate in the discussion.

- (ii) To exclude the governor from the Governing Council for the duration of the discussion of that specific item.
- (iii) To request the governor to resign.

However, given the nature of University business and its structure and the involvement of public funding, options (ii) and (iii) are highly unlikely.

11.5 The policy on conflict of interest

- (i) Governors are asked to make a *declaration of interest* if they believe that an item of business under discussion, or shortly to be discussed at a meeting of governors, places the governor in a position where there is a *risk* of a conflict of interest.
- (ii) Normally, governors will be able to judge from the agenda whether there will be a need to disclose a potential conflict of interest. In which case they are in a position to declare the potential conflict of interest ahead of any discussion. However, if the governor does not become aware of a potential conflict of interest until the discussion is under way, s/he should still declare the interest. Governors are expected to declare an interest in a matter at the earliest possible opportunity.
- (iii) If a governor believes that a *conflict* of interest has occurred then this should be reported to the chair of the committee and the Chair of Council as early as possible.
- (iv) Therefore, unless there is a significant conflict of interest, the Governing Council does not proscribe the participation of governors with declared interests or conflicts of interest from the discussion of business items. However, governors who have a conflict of interest must **not** participate in any related vote.
- (v) Governors who declare an interest may take part in the discussion of the matter provided that the Governing Council has authorised this in advance. However, it is a matter of good practice that they remind the other governors of the circumstance during the discussion so that all participants are aware of the theoretical partiality.
- (vi) All members of the Governing Council and the Corporate Management Team are required to disclose any related party transactions, in accordance with the regulations of the Financial Services Authority, in July each year. The related parties are defined as a director's parents, spouse, children, step-children and a civil partner.
- (vii) All new governors are asked to complete a declaration on appointment and all existing governors and members of the Corporate Management Team are asked annually in July to review their declared interests, indicate any related party interests and register any gifts received during the year. Registers recording declared interests, related party transactions and declared gifts are maintained by the Clerk.

- (viii) The information provided will be processed in accordance with data protection guidelines as set out in the Data Protection Act 1998. The information provided will not be used for any other purpose than recording the declarations.
- (ix) If a governor fails to declare an interest known to the Chair, Clerk or other governor then any of these persons may disclose such interest on the governor's behalf.
- (x) Ultimately, the Chair will decide if a governor has a conflict of interest and if that governor should be permitted to participate in discussions and decisions on any given subject. In the event of the governing council having to decide by vote, interested parties may not vote on matters affecting their own interests.
- (xi) The minutes of any meeting at which a conflict of interest is declared will record:
- the nature of the interest
 - an outline of the discussion
 - the actions taken to manage the conflict
- (xii) Governors with a declared conflict of interest are not permitted to authorise contracts or invoices connected with such conflict.
- (xiii) Where a material conflict of interest exists and has been authorised by the Governing Council and a governor receives a benefit from the action taken this, benefit will be declared in the University Annual Report.

In the unlikely case of a substantial and persistent conflict of interest which seems likely to damage the interests of the University, the Chair may ask the governor to remove the conflict, if necessary, by resignation from the Governing Council.

12. The register of interests and the disclosure of related party transactions and gifts

12.1 Introduction

In order to comply with financial regulations it is necessary each year for the members of Governing Council and the Corporate Management Team to submit information which is recorded by the Clerk. The purpose of the information is to help to ensure that there is knowledge in the public domain of any factors which might have an undue influence on the advice or decision making by a governor or senior manager.

The information requested comprises a list of business and professional interests of the governor/ senior manager; a list of any transactions which involved a family member or a business associate in an organisation conducting business with the University; any knowledge of instances of fraud which have been committed and the record of any significant gifts which a third party or the University has given to the governor or the senior manager which might compromise their decision making.

12.2 Register of interests

Governors and senior managers are asked to list all organisations with which they have an association as director, member, trustee or any professional capacity which could conceivably lead to a conflict of interest. This might occur if there was a development in which the third party organisation and the University had a competing interest. The register represents declarations of interest. If an item is placed on the agenda where a governor or senior manager discerns an interest, then this should be declared at the beginning of the meeting or when the item is taken so that the interest is recorded in the minutes. If there is a conflict of interest then the governor or senior manager should offer to withdraw from the activity. This can occasionally mean withdrawing from a committee meeting or even suspending membership of a committee for a period of time. If there is any doubt about inclusion, it is probably wise to include the interest on the register.

12.3 Disclosures of Related Party Transactions

The University must comply with the Financial Regulations on related party transactions. This is where a transaction has taken place between the University and a business in which there is an interest by family member or a business associate at the University. The regulations relate to member of key management which includes governors and directors (CMT). Disclosure is necessary to ensure that no special advantages have benefited the related party or compromised the governor. Governors should not be associated with business dealings in connection with the University or its subsidiary companies.

It is important that staff involved in areas of major expenditure, for example, estates and purchasing are not seen to have a conflict of interest through any relationships with staff within the suppliers. Such activities should be encompassed within the definition of key management.

Transactions between the University and a governor's or a director's close family are considered on the same basis as for the governor or director. Close family is defined as family members, or members of the same household, who may be expected to influence or be influenced by that person in their dealings with the University. In these circumstances the transaction should normally be disclosed.

12.4 Instances of fraud

It is probable that if any governor or senior manager harboured suspicions of fraud then s/he would have already reported their suspicion to the Vice-chancellor or Chair of the Governing Council. Nevertheless, this information should be formally recorded here in the annual register. The University operates a policy and measures to prevent fraud and corruption and it has procedures which are followed in the event of alleged fraud or corruption. Governors will be asked annually to report any instances of fraud or alleged fraud of which they are aware. It is advisable to include reference to ones which they believe are already under formal consideration so that there is no risk of oversight.

12.5 Register of Gifts

Governors are requested to send details of *any* gifts received through a third party of the University. Gifts include invitations to events with expenses paid.

12.6 Annual review of declarations

Audit and Risk Committee conducts an annual review of declarations of interest, related party transactions and the register of gifts reported by governors and members of the Corporate Management Team.

13. Serious incident reporting framework

Charities Act 2006: Framework for the Reporting of Serious Incidents to HEFCE and other external bodies

On 1st June 2010, HEFCE became the principal regulator for the higher education institutions classed as exempt charities. The University of Derby is an exempt charity. HEFCE is therefore required to ensure that the exempt charities are compliant with charity law. Serious incidents, defined as one which has resulted in significant loss of funds or poses a significant risk to the institution. This table provides a framework for the procedures that apply in the event of a serious incident. The Table is designed to be illustrative and not comprehensive. Note that some incidents should also be reported to FE funding bodies. Please see the legend at the foot of the chart for the definitions of the terms.

	Serious Incident Category and type	Action following allegation or realisation	Procedure for internal reporting to Executive and Governing Council	Procedure for External disclosure
1	FINANCIAL INCIDENT			
	Fraud or bribery or corruption	The Financial Controller on behalf of the Finance Director is informed and instigates standard procedure for investigation of the incident. The outcome is reported to the Finance Director.	As soon as the incident is known or suspected the Financial Controller or Finance Director, as appropriate, informs The Executive. The Vice-Chancellor informs the chairs of SFP Committee and Audit and Risk Committee. Audit and Risk Committee will decide on further actions which should be taken to prevent re-occurrence. A report is prepared for the Governing Council.	If an alleged incidence of fraud or bribery or corruption (value >£25 k) is found to have actually occurred, then the Executive will report the incident to HEFCE [and FE Funding body if appropriate] at the earliest possible time. A following report will indicate any actions which Audit and Risk Committee has decided as preventive measures.
	Major accounting error revealed at audit			
	Collapse of company in which University has invested significantly			
	Unknown major donor			
2	HEALTH AND SAFETY INCIDENT			
	Serious accident or disease affects staff or students	Follow critical incident procedures: inform the appropriate member of the gold team: The Registrar or The Director HR as appropriate.	Follow critical incident procedures. The gold team director informs the Vice-Chancellor or his Deputy as soon as possible. The VC or Deputy will inform the Chair of Governing Council.	The Health and Safety Executive is informed immediately. HEFCE is informed if the Executive judges that the incident has been serious and could affect the business health of the charity
	Breach of health and safety regulations by department or contractor			
3	INFORMATION TECHNOLOGY SERVICE INCIDENT			
	Disruption to servers for a sustained period	Follow critical incident procedures: inform the Director of ITS	The ITS Director informs the VC or his Deputy as soon as possible. The VC or the Deputy will inform the Chair of Governing Council.	HEFCE is informed if it is judged that the incident has been serious and could affect the business health of the Charity
	A serious breach of the Data Protection Act			
4	NATURAL DISASTER			
	Earthquake damage	Follow critical incident procedures: inform the appropriate member of the gold team: the Registrar, Director HR, Estates Director and ITS Director as appropriate.	Follow critical incident procedures. The gold team director informs the Vice-Chancellor or his Deputy as soon as possible. The VC or Deputy will inform the Chair of Governing Council.	HEFCE [& FE Funding body if appropriate] is informed at the earliest possible time with offer of a full report to follow relating to business impact and implementation of the business continuity plan.
	Major storm damage			
	Substantial lightning fire with loss of accommodation and equipment but no loss of personnel			
5	REPUTATIONAL HARM			
	Institutional academic audit or inspection has poor outcome	The information is communicated immediately to the VC if he is not	The VC informs the Chair of Governing Council immediately indicating the	HEFCE is informed if it is judged that the incident has been serious and could affect

Academic decision reflects unfavourably on standards	already aware of the incident. Executive decides on the actions to be taken.	anticipated effects and the measures being taken to limit the damage.	the business health of the charity
Known or alleged links to proscribed organisations or to terrorism	The information is communicated immediately to the VC if he is not already aware of the incident. Executive decides on the actions to be taken.	The VC informs the Chair of Governing Council immediately indicating the anticipated effects and the measures being taken to limit the damage	The appropriate authorities are informed immediately. HEFCE is informed at the earliest possible time with offer of a full report to follow relating to business impact and the implementation of the business continuity plan.
Abuse or mistreatment of a vulnerable beneficiary (eg FE student)	The information is communicated immediately to the VC if he is not already aware of the incident. Executive decides on the actions to be taken.	The VC informs the Chair of Governing Council immediately indicating the anticipated effects and the measures being taken to limit the damage	The appropriate authorities are informed immediately. HEFCE is informed at the earliest possible time with offer of a full report to follow relating to business impact and the implementation of the business continuity plan.

In the event of a serious incident the Executive will normally obtain the advice of the Director of Marketing and his senior colleagues regarding the measures necessary to manage the publicity and minimise reputational damage.

Definitions:

Serious accident: This is defined by the Health and Safety Executive as an accident which necessitates the person[s] concerned needing to go to hospital for medical treatment or needing to be on sick leave for more than two days.

Disruption to service for a sustained period: This is defined as a disruption which prevents the staff or customers of the University for a period of time which is likely to be problematic for normal operation. A disruption for a period of hours is likely to be significant. A disruption for more than a day could be serious and will need to be managed.

Impact on the business: refers to the systematic analysis of the potential impact of incidents as part of the business continuity plans coordinated by the Business Continuity Manager [Sarah Cotterill]. In the event of an incident, the senior manager responsible makes an assessment of the actual impact of the incident on the service or the activity and sets out how the University will implement the business continuity plan in respect of this service.

PHB/SA/RL Approved by the Executive 14th April 2011: Updated 15th April 2013

14 Whistleblowing Procedure

(Formerly 'Raising concerns at the University of Derby', Updated by June Hughes, Clerk to Council and Company Secretary. Approved by Council July 2015)

14.1 Introduction

Many of us at one time or another will have concerns about what may be happening at work. Usually these concerns are easily resolved. However, when they are about serious malpractice like financial irregularities, dangerous working conditions, discrimination or fraud, it can be difficult to know what to do.

You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or the University or give you concern about the response you may receive. You may want to say something but find that you have spoken to the wrong person or raised the issue in the wrong way. The fact is, if you do have genuine concerns about aspects of the University's business, then your concerns must be our concern also.

This procedure is therefore designed to enable you to raise your concerns about serious malpractice at an early stage and in a safe manner. We want you to raise the matter when it becomes a concern rather than wait for proof.

14.2 If in doubt – raise it!

This procedure applies to all employees, workers, contractors and students.

It should not be confused with other University policies and procedures, e.g. Grievance, Discipline, Equal Opportunities, Academic Appeals, and Complaints. This procedure should not be used to disclose a breach in an employee's own contract of employment. The Clerk to the Governing Council will advise you of the appropriate procedure if required.

As this policy assures protection for those declaring a genuine concern, anonymous disclosures are discouraged as this makes it harder to fully investigate and follow up on the issues raised.

14.3 Background

The law provides protection for those who raise legitimate concerns about specified matters. These are called "qualifying disclosures". A qualifying disclosure is one made in the public interest by a worker who has a reasonable belief that:

- a criminal offence;
- a miscarriage of justice;
- an act creating risk to health and safety;
- an act causing damage to the environment;
- a breach of any other legal obligation; or
- concealment of any of the above;

is being, has been, or is likely to be, committed. It is not necessary for you to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient.

Examples of disclosures which may fall within these categories and so be covered by this Policy might include:

- financial malpractice, impropriety, fraud, bribery or corruption
- matters which require the University to liaise with the Police
- failure to comply with the requirements of Articles, Ordinances or Regulations of the University
- academic or professional malpractice

14.4 How to proceed

Where you have a concern, we hope you will feel able to raise it with your line manager or through heads of colleges/departments, at official committees or through staff/student representatives including recognised trade unions as part of our normal business activities. If you feel unable to follow that route, for whatever reason, you should raise the matter with the Clerk to the Governing Council. Where you feel that the Clerk may have a conflict of interest in the matter, then the issue should be raised with the Vice-Chancellor or the Chair of the Governing Council.

14.5 What happens next?

Having alerted us to the concern, it is our responsibility to investigate the matter. The initial stage will be to discuss the matter with you and then assess what further action should be taken. We will ask you how you wish to see the concern resolved, and whether you would want to be told about how we will conduct the investigation. If the person approached feels that the concern can be resolved quickly, or in a straightforward manner, it will be brought to the attention of the appropriate manager. The procedure may lead to other processes being implemented such as the disciplinary procedure or investigations by the internal auditors.

14.6 Assurances

Concerns raised under the procedure will be treated seriously and sensitively. Where it is practicable, immediate steps will be taken to remedy the situation. However the final outcome may take longer depending on the issue that is raised.

We will make every effort to keep your identity confidential if you wish this to be the case. If this is not possible, for example if you are asked to give evidence, you will be told and we will discuss the action with you. The earlier and more open the expression of a concern, the easier it will be to take action.

The University takes malpractice seriously. We all have a responsibility to raise genuine concerns about dangers to public health and safety, fraud, maladministration or other serious malpractice. This is consistent with the duty of universities to conduct their affairs in a responsible and transparent way and to take into account the requirements of the Funding Councils and other regulatory bodies, together with the standards of public life enunciated in the reports of the Committee of Standards in Public Life (Neill Committee).

The Council will not tolerate harassment or victimisation of anyone making a protected disclosure, regardless of whether or not it proves well-founded. You also have the right not to be dismissed for making a protected disclosure.

14.7 What the Governing Council asks of you

The purpose of this procedure is to enable you to raise your concerns within the University in confidence without any fear of reprisal. We therefore ask that you bring your concern to us in the first instance to allow us to investigate the matter properly. For further advice you may wish to contact an organisation called Public Concern at Work (tel: 0207 404 6609) who are there to help you.

You may raise your concerns accompanied by a friend, who should be another member of the University (employee or student).

When raising your concern you must declare any personal interest you have in the matter.

Your employment with the University shall be fully protected unless the subsequent investigation indicates, that an allegation was made for malicious reasons and was without foundation. In these cases separate disciplinary proceedings may be invoked against you.

14.8 At the end of the process

Where concerns have been raised, the person receiving them shall make a record of its receipt and the action subsequently taken. The results of the investigation will be reported to the Audit and Risk Committee and to yourself. Sometimes, however, it may not be possible to reveal the full extent of the investigation.

You will be given an explanation where action is not taken.

The names of the officers at the present time are as follows:

- The Vice-Chancellor: Professor Kathryn Mitchell
- The Deputy Chief Executive and Finance Director: Mr Hari Punchihewa
- Chair of Governing Council; Mr Chris Hughes*
- Chair of Audit and Risk Committee: Dr Ian Webster*

*Contacted through the Clerk to Council, Mrs June Hughes: j.p.hughes@derby.ac.uk.

If you reasonably believe that the University has not addressed your complaint properly, you are able to report the matter to one of the authorities detailed below. Qualifying disclosures can be made to:

- HM Revenue & Customs
- The Financial Conduct Authority
- The Office of Fair Trading
- The Health and Safety Executive
- The Environment Agency
- The Director of Public Prosecutions

- The Serious Fraud Office
- Regulatory/Funding bodies, e.g. Higher Education Funding Council for England (HEFCE)
- The Quality Assurance Agency for Higher Education (QAA)

14.9 Additional Information

Generic frequently asked questions regarding Whistleblowing can be found on the Public Concern at Work's website, www.pcaw.org.uk.

15. Academic Board

Governing Council has responsibility for the oversight and approval of the terms of reference and the composition of Academic Board.

15.1 Terms of Reference

Academic Board is responsible, within the framework of the Articles of Association (Clause 39), for the establishment and maintenance of academic policies and procedures, and for advising the Vice-Chancellor on the development of academic programmes and the resources required to support them.

In exercising this responsibility, Academic Board has regard to the Mission of the University, and to external academic and professional standards and perceptions of quality. The Board sets as its overall aim in this context the continuous improvement of academic quality and educational standards. The Board seeks to have due regard to Equal Opportunities in its composition, its conduct and the business it transacts.

Subject to the provision of the Articles of Association, to the overall responsibilities of the Governing Council and the responsibilities of the Vice-Chancellor, the Academic Board shall be responsible for:

1. Consideration of policies for the development of academic activities within the University's Mission and the resources needed to support them, and advising the Vice-Chancellor and the Governing Council on these matters;
2. Advising on the development of academic priorities for the University's corporate and strategic plans;
3. Approval, implementation, monitoring and review of policies and procedures promoting the continuous improvement of academic quality and educational standards, including procedures for the validation and review of educational programmes and policies for the promotion of good practice in the management of educational opportunity;
4. Determination of criteria and making recommendations for the appointment and removal of internal and external examiners;
5. Determination of policies and procedures for the admission of students and the assessment and examination of their academic performance;

6. Establishment and monitoring of policies on general issues relating to research, scholarship, curriculum content and learning, teaching and assessment;
7. Active promotion of curriculum development and other initiatives of an academic nature within the University;
8. With the approval of the Vice-Chancellor and Governing Council, the establishment of committees with appropriate membership, to advise and assist the Board in carrying out its responsibilities. The Board may delegate specific functions to such committees;
9. Consideration of reports from committees concerning matters which are devolved to them and through these reports monitoring and evaluating the work of committees in those areas for which Academic Board is responsible;
10. The establishment of regulations for the award of the University's qualifications, including higher degrees by research or publication, and for the conferment of academic titles and honorary awards;
11. The establishment of policies and procedures for the suspension and expulsion of students for academic reasons;
12. The establishment and review of a procedure for the consideration in appropriate circumstances of appeals against decisions of assessment boards;
13. Consideration of reports from validating, accrediting, reviewing and other external bodies and making recommendations for action;
14. Advising on such other matters as the Governing Council or the Vice-Chancellor may refer to the Academic Board.

The approved minutes of Governing Council should be conveyed to Academic Board. Approved minutes of meetings of Academic Board should be placed in the Governors website folder.

15.2 Composition

(proposed to Academic Board July 2016 and approved by Governing Council October 2016)

- Vice-Chancellor and Deputy Vice-Chancellors [3]
- Pro Vice-Chancellors [2]
- Heads of all Academic Delivery Units (Deans of Colleges, UDOL and FE) [9]
- Dean of Learning Enhancement [1]
- Director of Research, Innovation and Impact [1]
- University Secretary and Registrar [1]
- Director of University Strategic Partnerships Unit [1]
- Head of Joint Honours [1]
- President and Vice-President: University of Derby Students' Union and Student Rep [3]
- Two Academic Board Nominees to Governing Council [2]
- Academic staff member from each College [7]
- Staff from Professional Support Areas representing the Student Experience [2]
- Officer to the Board [1] Total: 34

16. University Court

Presented as Frequently Answered Questions

16.1 What is the University Court?

The existence of the University Court is required by the University of Derby, Articles of Association. The University Court is a forum which brings external independent and friends of the University together with governors and senior managers of the University at meetings presided over by the Chancellor. The purpose of the meetings is to explore strategic issues through lively discussion in a critical but supportive atmosphere. The University Court is therefore a sounding board for the University.

16.2 What is the status of the outcomes of discussion?

The outcomes of the discussion are advisory and are expected to influence strategy and the implementation of strategy. All responsibilities and powers of governance rest entirely and absolutely with the Governing Council and all responsibilities for management rest with the University Executive supported by the Corporate Management Team.

16.3 Who may join the University Court?

Membership of the University Court is normally by invitation. The responsibility for approving membership lies with the Governing Council which is advised by the Nominations Committee.

There are two broad types of membership.

- (i) First there are members who are nominated by their organisation by virtue of the position that they hold.
- (ii) Secondly there are individuals who are invited to join the Court in recognition of their fine personal qualities, expertise and known interest in further and higher education.

Candidates in the following categories should be considered. The details which follow are intended to be illustrative and not definitive.

Civic and political leadership to include Derby City and Derbyshire County councillors, Members of Parliament, Members of the European Parliament, The Lieutenancy and The High Sheriff.

The Economic tier: representatives of major employers, normally the Chief Executive. This should also include such people as the County Chair of the CBI and TUC and other similar high status bodies.

The Voluntary and Community Services particularly with reference to health and education. This category should include Head teachers, Principals, Faith Leaders, Derby Millennium Network, and members of other universities. Priority should be given to the school and FE College partners of Compact arrangement which are true partnerships.

The University: The members of the Corporate Management Team, University Professors and honorary award holders. If the University wishes others to participate this should be effected by attendance rather than membership.

Individuals of particular merit: Nominations Committee may wish to invite individual who bring particular knowledge and enthusiasms. Former managers and organisational representatives could stay on as members in this category.

Occasionally, the Nominations Committee will consider expressions of interest submitted by members of the public or recommendations submitted by current members of the University Court. All existing members will be asked if they wish to continue and there will be a systematic check of the membership every three years. Those who do not respond would be deleted from the membership list.

16.4 What are members of Court expected to do?

The University looks to members of the University Court for supportive advice in strategic matters which may relate to the academic direction of the University, the human and physical resources, financial considerations and other matters of profound importance. Although the status of the Court is advisory, the views and suggestions put forward by members are greatly valued and influence the development of strategy. In order to assist members in this role, each meeting is centred on a presentation in which University managers, sometimes with the involvement of external members of Court, describe a major area of activity and identify the issues currently under consideration.

Members of the University Court are kept in touch with University news and developments. Members are sent a copy of the University news magazine Connect and they also receive copies of the Annual Review, the Annual Accounts and other occasional publications. Members are also invited to attend the Awards Ceremonies at Buxton and at Derby each year. Members are also invited to attend the Inaugural Lectures of University Professors and other special lectures. The University hopes that this influential engagement with the University of Derby becomes a source of considerable satisfaction to members of the University Court.

16.5 Are members of the University Court paid?

Membership is voluntary and unpaid. However, reasonable expenses will be paid in respect of costs incurred in connection with activities specifically requested or agreed by the University.

16.6 Is there any opportunity for a closer involvement with the University?

Yes indeed, there are various ways in which members of University Court may be able to gain a closer relationship with the University.

(i) Members of University Court who would like to participate in further work of the University Court are welcome to mention this interest to the Chancellor, Pro-Chancellor or Vice-Chancellor. Members may be invited to join advisory groups or working groups established by colleges or departments. These invitations will come from the Chair of the advisory or working group concerned.

- (ii) The University Court has established a University Court Advisory Group which meets in May each year with the Chancellor, Pro-Chancellor and Vice-Chancellor to agree the agenda for the meetings of the following year.
- (iii) Members of University Court may like to assist in the joint presentation of strategic issues to the University Court by giving an external perspective based on their particular experience.
- (iv) Members of the University Court who find themselves attracted to working with the University and who feel that they have sufficient time, may wish to consider applying for appointment to the Governing Council. There are on average one or two vacancies each year. Consideration is through a process of competitive application and formal interview.

16.7 How often does the University Court meet?

With effect from October 2006 the University Court has agreed to meet three times each year: in October, March and July. The meetings are normally held at either the Kedleston Road Campus or the Devonshire Campus in Buxton. The times of the meetings are normally as follows. The October meeting is held in the evening [usually 6.00 pm to 9.30 pm]; the spring meeting is held at lunch-time [usually 12.00 to 2.00 pm]. The summer meeting is normally held in the afternoon at 3.00 pm to 5.00 pm.

16.8 What is the role of the Chancellor?

The Chancellor is appointed by the Governing Council. The Chancellorship is an honorary position which is held for an indefinite period. The Chancellor presides at meetings of the Court and at special events such as the University Awards Ceremonies. In the absence of the Chancellor, the Pro-Chancellor deputises and in the absence of both Chancellor and Pro-Chancellor, arrangements are made for a senior external and independent member of the Governing Council to chair the proceedings.

The inaugural Chancellor of the University was Sir Christopher Ball who served from 1996 to 2003. Professor Leslie Wagner was installed as the second Chancellor in 2003. The third and current Chancellor, the Duke of Devonshire KCVO CBE DL, was installed in October 2008. Mr Chris Hughes is Pro-Chancellor of the University and Chair of Governing Council.

16.9 What is the period of membership?

Membership of the University Court is normally for an indefinite period. In some instances it will be appropriate to hold membership only as long as the individual occupies a particular office. Members of the Court are expected to engage with the work of the Court and attend the formal meetings of the Court. The University asks those whose circumstances change and do not permit regular attendance of the Court in future to let the University know and stand down. The University writes to all members approximately every three to four years to confirm that they wish to continue their role. Non-responses are taken to indicate that the member is unable to continue membership and wishes to stand down.

First approved by Governing Council on 6th October 2006.

Updated:

16 February 2011, 1 August 2013, 23 October 2015, 20 January 2017, 7 July 2017

Annexes

A1 The Companies Act 2006 - The general duties of directors

170 Scope and nature of general duties

(1) The general duties specified in Sections 171 to 177 are owed by a director of a company to the company.

(2) A person who ceases to be a director continues to be subject:

(a) to the duty in Section 175 (duty to avoid conflicts of interest) as regards the exploitation of any property, information or opportunity of which he became aware at a time when he was a director, and

(b) to the duty in Section 176 (duty not to accept benefits from third parties) as regards things done or omitted by him before he ceased to be a director.

To that extent those duties apply to a former director as to a director, subject to any necessary adaptations.

(3) The general duties are based on certain common law rules and equitable principles as they apply in relation to directors and have effect in place of those rules and principles as regards the duties owed to a company by a director.

(4) The general duties shall be interpreted and applied in the same way as common law rules or equitable principles, and regard shall be had to the corresponding common law rules and equitable principles in interpreting and applying the general duties.

(5) The general duties apply to shadow directors where, and to the extent that, the corresponding common law rules or equitable principles so apply.
The general duties

171 Duty to act within powers

A director of a company must:

(a) act in accordance with the company's constitution, and

(b) only exercise powers for the purposes for which they are conferred.

172 Duty to promote the success of the company

(1) A director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to—

(a) the likely consequences of any decision in the long term,

(b) the interests of the company's employees,

(c) the need to foster the company's business relationships with suppliers, customers and others,

(d) the impact of the company's operations on the community and the environment,

(e) the desirability of the company maintaining a reputation for high standards of business conduct, and

(f) the need to act fairly as between members of the company.

(2) Where or to the extent that the purposes of the company consist of or include purposes other than the benefit of its members, subsection (1) has effect as if the reference to promoting the success of the company for the benefit of its members were to achieving those purposes.

(3) The duty imposed by this section has effect subject to any enactment or rule of law requiring directors, in certain circumstances, to consider or act in the interests of creditors of the company.

173 Duty to exercise independent judgment

(1) A director of a company must exercise independent judgment.

(2) This duty is not infringed by his acting—

(a) in accordance with an agreement duly entered into by the company that restricts the future exercise of discretion by its directors, or

(b) in a way authorised by the company's constitution.

174 Duty to exercise reasonable care, skill and diligence

(1) A director of a company must exercise reasonable care, skill and diligence.

(2) This means the care, skill and diligence that would be exercised by a reasonably diligent person with—

(a) the general knowledge, skill and experience that may reasonably be expected of a person carrying out the functions carried out by the director in relation to the company, and

(b) the general knowledge, skill and experience that the director has.

175 Duty to avoid conflicts of interest

(1) A director of a company must avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company.

(2) This applies in particular to the exploitation of any property, information or opportunity (and it is immaterial whether the company could take advantage of the property, information or opportunity).

(3) This duty does not apply to a conflict of interest arising in relation to a transaction or arrangement with the company.

(4) This duty is not infringed—

(a) if the situation cannot reasonably be regarded as likely to give rise to a conflict of interest; or

(b) if the matter has been authorised by the directors.

(5) Authorisation may be given by the directors—

(a) where the company is a private company and nothing in the company's constitution invalidates such authorisation, by the matter being proposed to and authorised by the directors; or

(b) where the company is a public company and its constitution includes provision enabling the directors to authorise the matter, by the matter being proposed to and authorised by them in accordance with the constitution.

(6) The authorisation is effective only if—

(a) any requirement as to the quorum at the meeting at which the matter is considered is met without counting the director in question or any other interested director, and

(b) the matter was agreed to without their voting or would have been agreed to if their votes had not been counted.

(7) Any reference in this section to a conflict of interest includes a conflict of interest and duty and a conflict of duties.

176 Duty not to accept benefits from third parties

(1) A director of a company must not accept a benefit from a third party conferred by reason of:

(a) his being a director, or

(b) his doing (or not doing) anything as director.

(2) A "third party" means a person other than the company, an associated body corporate or a person acting on behalf of the company or an associated body corporate.

(3) Benefits received by a director from a person by whom his services (as a director or otherwise) are provided to the company are not regarded as conferred by a third party.

(4) This duty is not infringed if the acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

(5) Any reference in this section to a conflict of interest includes a conflict of interest and duty and a conflict of duties.

177 Duty to declare interest in proposed transaction or arrangement

(1) If a director of a company is in any way, directly or indirectly, interested in a proposed transaction or arrangement with the company, he must declare the nature and extent of that interest to the other directors.

(2) The declaration may (but need not) be made—

(a) at a meeting of the directors, or

(b) by notice to the directors in accordance with—

(i) section 184 (notice in writing), or

(ii) section 185 (general notice).

(3) If a declaration of interest under this section proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.

(4) Any declaration required by this section must be made before the company enters into the transaction or arrangement.

(5) This section does not require a declaration of an interest of which the director is not aware or where the director is not aware of the transaction or arrangement in question.

For this purpose a director is treated as being aware of matters of which he ought reasonably to be aware.

(6) A director need not declare an interest:

(a) if it cannot reasonably be regarded as likely to give rise to a conflict of interest;

(b) if, or to the extent that, the other directors are already aware of it (and for this purpose the other directors are treated as aware of anything of which they ought reasonably to be aware); or

(c) if, or to the extent that, it concerns terms of his service contract that have been or are to be considered—

(i) by a meeting of the directors, or

(ii) by a committee of the directors appointed for the purpose under the company's constitution.

Supplementary provisions

178 Civil consequences of breach of general duties

(1) The consequences of breach (or threatened breach) of sections 171 to 177 are the same as would apply if the corresponding common law rule or equitable principle applied.

(2) The duties in those sections (with the exception of section 174 (duty to exercise reasonable care, skill and diligence)) are, accordingly, enforceable in the same way as any other fiduciary duty owed to a company by its directors.

179 Cases within more than one of the general duties

Except as otherwise provided, more than one of the general duties may apply in any given case.

180 Consent, approval or authorisation by members

(1) In a case where—

(a) section 175 (duty to avoid conflicts of interest) is complied with by authorisation by the directors, or

(b) section 177 (duty to declare interest in proposed transaction or arrangement) is complied with, the transaction or arrangement is not liable to be set aside by virtue of any common law rule or equitable principle requiring the consent or approval of the members of the company.

This is without prejudice to any enactment, or provision of the company's constitution, requiring such consent or approval.

A2 Conflicts of interest and the Companies Act 2006

A2.1 The Charity Commission viewpoint

With effect from 1st October 2008, directors are under a specific statutory duty to avoid a situation in which they have, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company (Section 175(1) of the Companies Act 2006) (See Section 3). The Charity Commission believes that directors of charitable companies were already under a duty to avoid conflicts of interest prior to the implementation of this Section. Conflicts of interest include those arising from:

any personal financial interest in a transaction with the charity – for example, where a director receives payment from the charity for services or goods;

conflicts of duty which do not involve any material benefit to a director, for example, where a director is also a charity trustee of another charity which might be in competition with the charity ("conflicts of loyalty").

In the case of a charitable company, the Companies Act duty does not apply to a conflict of interest arising in relation to a transaction or arrangement with the company if this is permitted by the company's articles of association (Section 175(3) of the Companies Act 2006 as modified for charitable companies by Section 181).

Where a benefit or a transaction which may give rise to a conflict of interest is authorised by an order of the Charity Commission, the duty to avoid a conflict of interest does not apply (Section 26(5)A of the Charities Act 1993).

In addition, authorisation may be given by those directors who do not have a conflict of interest, where the company's constitution includes provision enabling them to provide

such authorisation (Section 175(5) as modified by Section 181). Such authorisation is not necessary where the conflict arises from a transaction or arrangement with the company which is authorised by the memorandum or articles of the company.

A2.2. What exactly is meant by conflict of interest?

The Charity Commission holds that a director must avoid a situation in which he has, or can have a direct or indirect interest [personal gain] that conflicts, or possibly may conflict, with the interests of the company. The Companies Act 2006 does not present a definition of interest but it is understood to apply to the exploitation of any property, information or opportunity. It is immaterial whether the company has taken or could have taken advantage of such property, information or opportunity.

A director should also consider the interests of a person connected with him in deciding whether or not there is a conflict situation. The definition of connected in the Companies Act 2006 is wide and covers a director's parents, spouse, children, step-children and a civil partner. Examples of situations where conflicts of interest may arise include directorships in other companies, licensing of intellectual property and awarding service contracts.

A2.3 The Companies Act 2006, Section 175 – The Director's duty to avoid conflicts of interest

- (1) A director of a company must avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company.
- (2) This applies in particular to the exploitation of any property, information or opportunity (and it is immaterial whether the company could take advantage of the property, information or opportunity).
- (3) This duty does not apply to a conflict of interest arising in relation to a transaction or arrangement with the company.
- (4) This duty is not infringed.
 - (a) if the situation cannot reasonably be regarded as likely to give rise to a conflict of interest; or
 - (b) if the matter has been authorised by the directors.
- (5) Authorisation may be given by the directors—
 - (a) where the company is a private company and nothing in the company's constitution invalidates such authorisation, by the matter being proposed to and authorised by the directors; or
 - (b) where the company is a public company and its constitution includes provision enabling the directors to authorise the matter, by the matter being proposed to and authorised by them in accordance with the constitution.
- (6) The authorisation is effective only if:

- (a) any requirement as to the quorum at the meeting at which the matter is considered is met without counting the director in question or any other interested director, and
 - (b) the matter was agreed to without their voting or would have been agreed to if their votes had not been counted.
- (7) Any reference in this section to a conflict of interest includes a conflict of interest and duty and a conflict of duties.

A2.4 Exemptions to the duty to avoid a conflict of interest

There are three exemptions to the duty to avoid a conflict of interests. The duty is not infringed:

if the conflict arises in relation to a transaction or arrangement with the company (in which case the director is obliged to disclose his interest);

if the situation cannot reasonably be regarded as likely to give rise to a conflict of interest;
or

(iii) if the matter has been authorised by the independent directors without the conflicted director either counting towards the quorum or voting on the resolution.

A2.5 Authorisation of conflicts of interest

For private companies formed before 1 October 2008, the directors are not automatically given the power to approve conflicts. Instead the company must either pass a resolution or amend their articles to give the directors this authority. Section 175 clearly states that the directors' authority is only valid if the director who is in the conflict situation does not count in the quorum or vote on the resolution giving the authority.

Section 175 of the Companies Act cannot be used to authorise retrospectively or ratify existing conflicts. However, companies may wish to give their board the authority to authorise conflicts arising in the future. There is no mechanism which allows the Governing Council to authorise conflicts of interest.

Although the Companies Act 2006 allows the University to amend the Constitution and permit the Governing Council to agree resolutions authorising conflicts of interest, it is felt that this change is unnecessary. The University could review the position if it finds that directors who are trustees of other charities are facing difficulties in reconciling conflicts of interest with their duty as a director.

PHB/16th May 2009

A3 The Governance Process by Committee

Committee	Cycle One – September and October	Cycle Two – December and January	Cycle Three – March and April	Cycle Four – June and July
Governing Council	Approve the audited Year End Accounts Approve appointment of Ext Auditors Approve the Letter of Representation Approve Ann Report of AR Committee Consider Chair's & VC's Rpts Receive UDSU report and SAC minutes Approve the Performance Matrix Consider the KPIs outturn Consider Academic Quality & Perform Consider Academic Board Report & Mins Consider Finance, estates, strategic dev Consider recruitment & income position Consider National Student Experience Consider Environmental Responsibility Consider External Affairs Update Consider Super Risks & Bus Continuity Consider Staff Engagement Receive the Principal's Report Verbal reports from Chairs/committees	Consider Chair's & VC's Rpts Receive UDSU report and SAC minutes Consider finance, estates & strat dev Consider Super Risks Consider recruitment & income position Consider student application position Consider Academic Quality & Performance Receive Academic Board Minutes Consider HR Report and Annual HR Rpt Consider Annual Equality & Diversity Rpt Consider External Affairs Update Consider Ann Prevent Duty Compliance Consider Ann Report Student Complaints Consider RIAE and IISE Update Consider Annual Strategy Meet Outcomes Receive the Principal's Report Receive news from the Colleges & UDOL Receive any statutory returns Verbal reports from Chairs/committees	Consider Chair's & VC's Rpts Receive UDSU report and SAC minutes Approve schedule and Noms cttee report Consider finance, estates & strat dev Consider Super Risks & Bus Continuity Consider KPI Interim results Consider Academic Quality & Perf Receive Academic Board Minutes Consider recruitment & income position Consider student application position Consider External Affairs Update Consider Environmental Responsibility Receive the Principal's Report Verbal reports from Chairs/committees	Consider Chair's & VC's Rpts Receive UDSU report and SAC minutes Approve the budget and 5 Year Plan Receive Rem Cttee Feedback Consider Draft Performance Matrix Consider finance, estates & strat dev Consider Super Risks Consider KPI Interim results Consider Academic Quality & Perf Receive Academic Board Minutes Consider recruitment & income position Consider student application position Consider HR Report Consider External Affairs Update Consider RIAE and IISE Update Receive the Principal's Report Receive news from the Colleges & UDOL Receive Hefce assessment risk/prevent Verbal reports from Chairs/committees
Audit and Risk Committee (ARC) (Private meeting in October)	Consider Chair's and VC's report Approve the Management Letter Approve the letter of representation Approve BV annual report Recommend Appointment of EA Approve IAS Annual Report & Plan Agree Annual Report of ARC Agree the Year End Accounts Approve final Internal audit reports Consider Ext/Int Audit Rpts & Register Consider Super Risks & Bus Continuity Consider Academic Quality & Perf Note External Affairs update Receive sustainability KPI outcome Receive Register and Declarations Receive any other audit feedback – NAO	Consider Chair's and VC's report Approve best value next phase reports Consider the External Audit Update Approve any internal audit reports Consider the Internal Audit Register Consider Super Risks and Appetite Report Consider Academic Quality & Performance Note External Affairs update Note HESA student return final outcome Receive any other audit feedback - NAO	Consider Chair's and VC's report Approve best value reports Consider the External Audit Update Approve any internal audit reports Approve list of reports to ext bodies Approve annual report on student complaints Consider the Internal Audit Register Consider SRs, Appetite & Bus Continuity Consider Academic Quality & Performance Note External Affairs update Receive any other audit feedback - NAO	Consider Chair's and VC's report Approve best value reports Consider the External Audit Update Consider draft internal audit plan nxt year Approve any internal audit reports Appraise the performance of ARC Consider the Internal Audit Register Consider Super Risks and Appetite Report Consider Academic Quality & Performance Note External Affairs update Receive any other audit feedback - NAO
Strategy, Finance and Planning Committee (SFP)	Agree the Year End Accounts Receive Chair's and VC's Reports Approve the Treasury Strategy Consider the Treasury Performance Consider the Performance Matrix Consider Finance, estates, strategic devs Consider Recruitment and Admissions Consider Super Risks & Bus Continuity Receive BV Annual Report Note External Affairs update	Consider Chair's and VC's Reports Consider Finance, estates, strategic devs Consider the HR Report & statistics Consider Recruitment and Admissions Consider Super Risks Consider RIAE and IISE Update Note External Affairs update Note HESA student return final outcome	Consider Chair's and VC's Reports Consider Finance, estates, strategic devs Approve Trac and TracT returns Consider Recruitment and Admissions Consider Super Risks and Bus Continuity Note External Affairs update	Agree revised Strategic Plan Consider Chair's and VC's Reports Consider Finance, estates, strategic devs Consider the HR Report & statistics Consider Recruitment and Admissions Consider Super Risks Consider RIAE and IISE Update Note External Affairs update

A3 The Governance Process by Committee [Updated 3rd January 2017] Contd/

<p>Further Education Governance Committee (FEGC)</p>	<p>Receive the Principal's Report* Receive the Student Update Approve the subcontractors and policy Consider the TLA update and staff dev Receive enrolment position Consider the College Risk Register Consider QIP prior year closing Consider the TOR and Composition Receive full year H&S report Consider achievement targets current year Consider apprenticeships report prior year Consider YE financial performance Consider staff satisfaction action plan</p> <p>*Prevent and safeguarding matters as required and H&S update</p>	<p>SEMINAR - SAR Receive the Principal's Report* Receive the Student Update Approve new subcontractors Finance Rpt - inc income perf Receive Term one learner voice report Consider staff satisfaction – progress Receive applications, enrol & conversions Consider the TLA update Consider staff utilisation – prior year Consider Value Added Report Receive YE funding income performance Consider College risk register – progress Approve the final SAR & QIP YE achievement, success and high-grades Retention, attendance & achievement Consider Apprenticeships & Subcontractors Consider Progression report Receive Employer Voice - annual report</p>	<p>Receive the Principal's Report* Receive the Student Update Consider Finance Report Consider Staff utilisation monitoring Receive applications & enrolments monitoring Consider staff satisfaction – progress Consider retention and attendance Consider college risk register progress Apprenticeships and Subcontractors Governor Self-Assessment Review Consider TLA update Receive Prevent & Safeguarding Update</p>	<p>Endorse College Strategic Plan Receive the Principal's Report* Receive the Student Update Consider Finance Report Receive Term three learner voice Consider Curriculum Strategy Consider Student applications Consider TLA update Receive Ann complaints & compliments Consider college risk register Year end Receive enrolments profile against targets Receive retention report against targets Receive current year attendance monitoring Apprenticeships and Subcontractors Consider retention and attendance targets Consider enrolment targets National Success Rates – Institution comparison Consider staff satisfaction – progress Consider QIP – progress monitoring</p>
<p>Nominations and Remuneration Committees</p>			<p>Nominations Committee Review the position regarding prospective retirements from Council and identify action required. Consider nominations for membership of University Court. Consider changes in membership and chairs of committees</p>	<p>Nominations Committee Consider nominations for membership of University Court. Consider changes in membership and chairs of committees.</p> <p>Remuneration Committee Approve the remuneration of the Senior Post Holders</p>

[Updated January 2017]