

Halpin Partnership

THE HALPIN REVIEW:

A REVIEW OF COUNCIL
EFFECTIVENESS AT THE
UNIVERSITY OF BATH



MAY 2018

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EXECUTIVE SUMMARY

1. This report provides a detailed review of the effectiveness of the Council of the University of Bath and its committees with particular reference to the Remuneration Committee (RemCo).¹ Given the particular context and timing of this project, the Halpin Review Team were asked to consult more widely than is typical in a governance review of this type.² The Review Team welcomes the approach the University Council has taken to the review, in particular its commitment to ensuring that the Review is independent and that a wide range of stakeholder voices could be heard as part of the process.
2. During the course of the Review we received a large body of evidence and opinion with regard to Council, its committees and the culture of the University. Our aim has been to consider this evidence objectively and compare it with best practice in the HE sector, and beyond.
3. From the outset and throughout the process, members of the

University Council have expressed their interest in moving towards becoming an exemplar of good practice in the higher education sector, and learning from other sectors. All of those to whom we spoke, despite their differences, showed a strong desire to see the University move forward successfully. Indeed, the passionate views which were often shared with us demonstrated the great commitment of all the stakeholders who engaged with the Review.

4. It is our view that the model of governance of universities incorporated by Royal Charter remains fit for purpose, but that its application at the University of Bath requires considerable improvement in order to restore the trust and confidence damaged by recent events and move the University towards best practice in governance.
5. While the University can be considered compliant in terms of the current sector guidance, there are a significant number of areas in



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which the University can increase the effectiveness of Council and its committees. With particular reference to RemCo the University is now making progress in terms of developing good policy and practice and it has ensured, in line with good practice, that the Chair of Council no longer chairs the Committee and that the Vice-Chancellor is not a member.³ The previous membership was in line with sector guidance at the time. We propose that the membership be further strengthened by the addition of staff, student and external expert membership. Historically, reporting to Council from the Committee has not been detailed nor transparent and arguably has not paid sufficient attention to the public interest (or at least evidenced that attention), but we are confident that, if our proposals are accepted, that will change. The University has committed to implementing emerging guidance from the Committee of University Chairs (CUC).

6. Good governance goes beyond compliance; it should aim to be participative and inclusive and encourage a culture of transparency and constructive challenge. Our most important recommendations are therefore aimed at enabling the University Council to give stronger voice to the University's stakeholders and to enable wider participation in governance. By so doing Council will be improving the effectiveness, quality and impact of governance at the University.
7. Our report includes 15 primary recommendations (PR), listed in full in Table 2, page 14. A number of these relate to the size and composition of Council, the terms of office of its members and their appraisal, most

notably that *“Council should consider the diversity and skills of its membership and appoint members with considerable higher education/research/public service/voluntary sector experience as vacancies arise”* and that *“A senior and respected designated lay (i.e. independent, non-executive) member acts, in effect, as the Senior Independent Director (SID)”*. These recommendations are aimed at increasing the effectiveness of Council in terms of the quality of debate, the variety of skills and experience of its members and the independence of voice of Council. The proposals include a recommendation that Council reduces in size from the current 26 to around 21 members and that absolute time limits be placed on length of service on Council wherever possible.

8. We have made recommendations around the operation of Council and its committees – most notably that *“The membership of the RemCo should be changed to include an elected staff member of Council, one of the student members of Council and an external expert in executive remuneration.”* And that *“Reserved business (whereby student members leave when certain items of business are considered) should be abolished”*. This change would put students on the same footing as other members of Council. We also include a recommendation which aims to support a fuller disclosure of current and relevant past interests of Council members, in the interests of further promoting transparency.
9. If these recommendations are implemented then staff and student Council members would be full participants in all Council committees, other than the Audit Committee which should comprise



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¹ Annex 1, Terms of Reference

² Annex 2, Methodology

³ Table 12, page 52

only non-executive members. This would enable the University of Bath to provide an exemplar to the sector in terms of staff/student participation in governance.

10. Our aim throughout has been to ensure that our recommendations are practical. Two⁴ of our primary recommendations relate to the means of taking forward the findings of this review. Their implementation will require time and commitment on the part of the University. With this in mind, we **recommend** that a new post of Head of Governance is created and that the post holder works in conjunction with a Steering Group to be chaired by a lay member of Council and including staff and student Council members. This group would oversee the implementation of our recommendations, if approved by Council.
11. Our report also includes a large number of supporting recommendations (SR), listed in full in Table 3, page 16. These are often around important points of detail where practice could be strengthened. The number of recommendations should not be interpreted as an indication of the failure of governance at the University but rather as offering a detailed set of suggestions and options for the University to consider. We do not wish to be overly prescriptive as the University must find its own path to improving the effectiveness of Council and its committees, but we hope that the detailed suggestions we offer will provide helpful guidance. Unless there are good reasons to the contrary, we hope that the Council will exercise a presumption in favour of their adoption.
12. The primary and supporting

recommendations will be found throughout the report alongside the relevant analysis. We strongly encourage readers to consider the recommendations in the context of the narrative we provide. We hope that they are also considered together as many are mutually reinforcing or complementary, and we believe that a selective approach to their implementation would have a greatly diminished impact.

13. It is our view that, if the University takes forward the recommendations outlined in this report, it will improve the effectiveness of Council and its committees and respond to the desire expressed by stakeholders for more open governance. Our recommendations also aim to foster a culture of transparency and participation which is a vital complement to governance structures, policies and procedures.
14. Finally, reports themselves are only effective if they result in changes taking place. The appetite for change as expressed by those who took part in our Review is very high. All parties are demonstrating their energy and desire for improved practice. This commitment is also visible on the part of the University Council, whose Chair and members have expressed their willingness to improve practice and are already moving forward in many areas discussed in this report, in particular with regard to remuneration policy and practice. We **commend** their commitment to improving their effectiveness by taking a more inclusive approach and moving forward swiftly.



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⁴ PR7 and PR9, page 14

INTRODUCTION

15. Following an open and competitive procurement process, Halpin Partnership Ltd (Halpin) was appointed by the University of Bath (the University) in November 2017 to conduct an independent review of the effectiveness of the University Council and its sub-committees with particular reference to the work of the Remuneration Committee (RemCo). The terms of reference of the review appear at Annex 1.

16. The Committee of University Chairs (CUC) publishes a Higher Education Code of Governance, the most recent version of which was published in 2014⁵. The Code includes the expectation that effectiveness reviews of Councils will use an assessment against the provisions of the Code as a starting point (see element 7.11 of the Code). The Code recommends that reviews be carried out at least every four years. The University's practice is to alternate interim and full reviews on a triennial cycle.

The last full effectiveness review on the University's website dates from 2011/12.

17. In the light of recent publicity relating to the remuneration of the University's President and Vice-Chancellor and a review by the former Higher Education Funding Council for England (HEFCE) into a governance matter, following an external complaint partly relating to the work of the Remuneration Committee and its oversight by Council, our remit requires us to review the operation of RemCo in particular. It should be noted, however, that this is an effectiveness review of Council and its committees as outlined in the terms of reference at Annex 1; it is not an investigation nor inquiry into recent events, and we are not auditors or inspectors.

18. Biographical details of the Halpin team can be found at Annex 3. The team comprised: Joint CEO and Co-Founder of Halpin Partnership Susie Hills, Lead Consultant David Allen OBE, Consultants Hanif Barma

⁵ <http://www.universitychairs.ac.uk/wp-content/uploads/2015/02/Code-Final.pdf>

and Frank Toop MBE, and Peter Smith, Korn Ferry, adviser on remuneration issues.

19. This report has been prepared for the University on the understanding that the University may publish it. Halpin supports publication in the interest of transparency, and in case some of the content is of interest more widely in the higher education sector and beyond. Halpin cannot, however, accept any responsibility for any reliance which third parties may place upon the report.
20. Halpin would like to thank all those who have contributed to the review, and acknowledge the support we have received from the University Secretariat in terms of requests for documents, information and arrangements for our numerous visits. The conclusions and recommendations are our responsibility.

Methodology

21. Our methodology as outlined in Annex 2, was designed to deliver a report which fulfilled the terms of reference, enabled wide consultation and feedback and drew in best practice from the sector and beyond. Annex 2 provides a summary of our evidence base, including number and stakeholder demographic of meetings held, number of people engaged and dates of University meetings observed. The methodology is summarised in Table 1, below.

Table 1: Summary of Methodology

- Desk review of documentation, including compliance with the CUC code;
- Survey questionnaire to members of Court, Council, Senate, staff and students;
- Non-attributable interviews with members of Council and other key stakeholders;
- Discussion groups comprising those who expressed a wish via the survey or Review email account to participate in the groups;
- Observation by Halpin of meetings of Court, Council (including Council committees) and Senate;
- Halpin team review of evidence, team challenge and discussion, development of recommendations;
- Presentation of report to Council on 24 May 2018.

22. Throughout the Review process we received questions regarding the independence of our work. We cannot emphasise enough that we are independent of all attempts to influence us inappropriately. In reviews of this kind it is common for the university under review to establish a steering committee to work with the consultants. For reasons of complete independence, the Council chose not to do so. Our report was seen by the University Secretary, Chair of Council and Vice-Chair of Council in early May purely (we emphasise) to check that we had not inadvertently included factually incorrect information or missed any key points of information or evidence. Any changes that were made after that point were made at our discretion,

based on the information and evidence provided and after full and careful consideration by the review team.

23. The University provided open access to us and all our requests for information or attendance at meetings were acceded to, other than a request to attend a HEFCE assurance review (HAR) visit in February 2018. We were provided with a copy of the Review report and confirm that no substantive issues have arisen from that visit. HEFCE ceased to exist on 31 March 2018.

24. Although we were aware of recent publicity, we brought no preconceptions to the review. We listened carefully to what people told us, either through the survey or face-to-face, observed the work of Council and its committees and undertook an extensive desk review. A wide range of often strongly held views were presented to us during the Review. There was much common ground, although some views are challenging to reconcile. We have therefore sought to apply our experience and judgement to arrive at a set of recommendations which we hope will improve the effectiveness of Council and its committees and in so-doing enable the University to move forward. We hope that our recommendations will also support a process of reconciliation between different stakeholders as the desire for the University to 'move on' positively was expressed by all stakeholder groups.

25. Part of our remit (3.4) involves "considering any other material issues raised during the consultation with members of Council and other key stakeholders". This means that some of our narrative and proposals go beyond matters of compliance with governance codes into wider issues of the culture and communications which support good governance. We hope that the Council will find the unfiltered opinions from staff, students and other stakeholders on these matters valuable and informative in their governance role. They tend to speak to culture rather than compliance; the importance of Council's role in promoting an open culture is a recurring theme and we therefore devote a section to it at the end of this report.



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OVERVIEW AND CONTEXT

Governance and Management

26. Governance and management are separate but related activities. To govern is to steer, to oversee, to challenge and to hold to account, but not to run day-to-day operations. Governance is partly about strategic oversight, compliance, and processes but, just as importantly, is about values and culture. It is dynamic rather than static, always developing in response to internal and external stimuli. Successful governance requires adherence to values as well as regulation. Council has an important role in establishing and maintaining an organisational culture built on those values. It necessitates an openness to new ideas, a willingness to learn from good practice and a positive attitude to suggestions for change. Governors act in the interests of the governed; they are not self-serving nor in thrall to

particular interest groups. Good governance is challenging in every sense of the word, but immensely important, since organisational failure is usually a result of a failure of governance.

27. In a university, put simply, it is the job of the Chair of Council to run the Council and the job of the Vice-Chancellor (the most senior employed officer of the university) to run the university. The Council as a collective and through the Chair does not manage the university but holds the Vice-Chancellor to account for its successful running and for achieving the strategic objectives determined from time to time by Council. The Secretary to Council ensures regulatory compliance and facilitates good governance. The three officers: Chair, Vice-Chancellor and Secretary to Council have a crucial role in working collaboratively to ensure effective governance.



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Governance Challenges

28. Electronic resources and social media provide instant means to access information and reach large populations. Governance needs to respond to challenge and criticism with a renewed focus on transparency and proactive communication. The review survey⁶ showed that, 72% of survey respondents disagree or strongly disagree with the statement that, in the University, “communication between staff/students and Council is effective.” Council clearly has work to do to improve communications.

29. Equally, governing bodies face increasing public scrutiny through the newly established regulatory body, the Office for Students (OfS). Senior executive pay in universities has been at the forefront of public concern in recent months, with Bath in the vanguard since it was widely reported that its Vice-Chancellor received the highest remuneration in the UK. It is vital that governing bodies are receptive to these concerns. The autonomy of universities is rightly regarded both as a protection of academic freedom and one of the main reasons for the success of the UK higher education system, but with autonomy comes responsibility and accountability to society. The best guarantee of autonomy is success, coupled with decision-making which is seen as reasonable and proportionate.

30. Against this background of increasing regulation and closer scrutiny it is vital that universities can exhibit good and, where possible, best practice in corporate governance. Mere compliance, in our view is simply an entry ticket to the process;

the aim should be always to be better than the previous best. Continuous improvement, as well as embodying the ethos of universities and being desirable in itself, provides a bulwark to defend autonomy.

31. Governing bodies have always faced considerable challenges, but those at present are especially formidable. They include Brexit, the OfS, the Augar review of post-18 student finance (in England), an increasingly competitive international student recruitment market in the context of the UK’s inclusion of students in the net migration target, the current cap on full-time home undergraduate fees, preparation for the next Research Excellence Framework (REF), subject-based Teaching Excellence Framework (TEF) and the putative Knowledge Exchange Framework (KEF). All this is happening at a time when the research and innovation funding landscape is changing with UK Research and Innovation (UKRI) now overseeing and coordinating the research councils, and Research England replacing HEFCE in allocating research funding based on REF outcomes.

32. At such a time, it is particularly important that governing bodies are outward-facing and inclusive. In the next section, we provide our assessment of Bath’s readiness for these challenges, along with a set of recommendations which we put forward to enable the University to move forward under the leadership of a new Vice-Chancellor and a reformed governing body.



72% of survey respondents disagree or strongly disagree with the statement that, in the University, “communication between staff/students and Council is effective.



⁶ Annex 4

Overall Conclusions

33. Some of the views expressed in the survey, at a meeting of Court we observed in January 2018, and in group and individual discussions, argue that the governance of the University is broken and that a different model is needed. A small minority argue for the adoption of a model widely used in the private sector (but also in the NHS) of a fairly small board comprised of executive and non-executive directors (with a non-executive majority) but without staff and student representation, possibly overseen by a supervisory board similar to the German model where stakeholders are represented, or the councils of governors required of NHS foundation trusts. Advocates of root and branch reform tend to call for the resignation of the current lay members of Council to be replaced by members elected by Court, Senate and Academic Assembly.

34. We **conclude** that the model of governance of universities incorporated by Royal Charter (which we describe in detail in the next section) remains fit for purpose, but that its application at the University (largely for cultural rather than compliance reasons) requires considerable improvement in order to restore the trust and confidence damaged by recent events and in order to move the university towards best practice in governance.

35. We believe that the preservation of the external, non-executive, independent majority on Council (as reformed by our proposals) is an important governance safeguard. These members tend to be referred to as lay members in universities incorporated by

Royal Charter so henceforth we use that nomenclature to refer to them. If all members of Council were either ex officio or elected by large, internal bodies it would be difficult to find the right balance of skills and experience or to improve the diversity of Council. The appointments process would inevitably be cumbersome and might put off otherwise strong candidates. We also strongly support the membership of staff and students on Council. The Financial Reporting Council is currently consulting around increasing the employee voice on private sector boards, the patient voice is becoming more important to the NHS and of course the clue for the OfS is in its title. We **conclude** therefore that student and staff voices are likely to become more rather than less important, and our proposals are designed to make them stronger.

36. A major change of the governance model would require Privy Council approval for significant changes to the University's Charter and Statutes which would be time-consuming and may not be successful given current guidance on lay majorities and staff and student representation. Given the urgent need to register as a provider with the OfS (where failure to do so would be existential) we believe that the University should focus on reforming the current arrangements.

37. We believe that our recommendations will go a long way towards meeting the concerns voiced by stakeholders, most notably our recommendation to include staff and student Council members on the Remuneration Committee and a student Council member alongside the lay and staff members on the Nominations



Student and staff voices are likely to become more rather than less important, and our proposals are designed to make them stronger.



Committee. Other examples of primary recommendations are:

- Reducing the size of Council to promote more effective and challenging discussion;
- Ending the “revolving door” which many have criticised whereby staff and lay members conclude a period of office but then return after a year or so;
- Creating a new post of Head of Governance, accountable only to Council and not to management, to be Secretary to Court, Council and Senate.

38. We list our full recommendations below in Tables 2 and 3. We regard them as a package. Taken together we **conclude** that they provide the basis for the University to move forward together and we **commend** them as such.

39. We encourage key stakeholders to read the report in full so that they can see the evidence and argumentation for our proposals. Given the range of views expressed to us it would be impossible to please everyone, but we do hope that readers will be able to understand our rationale even where they disagree and that, overall, the report provides a balance of change and continuity that will command a consensus.

40. The Council is currently embarking upon its most important job; appointing the next Vice-Chancellor. No doubt potential candidates will be interested to read our report. We would like to make it unequivocally clear that no candidate should be put off by recent events. The Vice-Chancellorship of Bath is a great opportunity. The University has been very successful and is full of people who are deeply invested

in it and ready to support a new Vice-Chancellor. The review survey⁷ showed that, over 63% of survey respondents strongly agree or agree that they are proud to be a member of the University of Bath community.

Recommendations

41. Our recommendations are outlined in Tables 2 and 3 below. They are graded into two categories: Primary Recommendations (PR) and Supporting Recommendations (SR). They have been edited for clarity but are referenced to the relevant section of the report containing the full detailed recommendation. We hope that the primary recommendations will be implemented as soon as practicable; we believe it should be possible even for those requiring Privy Council approval to be in place by the beginning of the 2019/20 academic year if our reforms are implemented at pace.

42. The number of recommendations should not be interpreted as an indication of the failure of governance at the University but rather as offering a detailed set of suggestions and options for the University to consider. We do not wish to be prescriptive as the University must find its own path to improving the effectiveness of Council and its committees, but we hope that the detailed suggestions we offer will provide helpful guidance.



The University has been very successful and is full of people who are deeply invested in it and ready to support a new Vice-Chancellor.



63% of survey respondents strongly agree or agree that they are proud to be a member of the University of Bath community.



⁷ Annex 4

Table 2: Primary Recommendations

PR1	Council members should declare former employment, where they have held senior positions in organisations which supply, have supplied or may supply goods and/or services to the University, on the Register of Interests, particularly if they are in receipt of pensions or dividends derived from their previous association with those suppliers (Paragraph 79).
PR2	The size of Council should be reduced from 26 to nearer 20 members to promote more effective and challenging discussion (Paragraph 88).
PR3	Every effort should be made to ensure a lay majority at all scheduled meetings of Council (Paragraph 96).
PR4	Maximum time limits should be placed on Council membership wherever possible and that once the maximum period has been served, members should be ineligible to return to Council (Paragraph 99).
PR5	Reserved business should be abolished and consequently students should be eligible to serve on the Honorary Degrees Committee (Paragraph 103).
PR6	Council should formally adopt a policy that all its confirmed minutes be placed on the University's website unless there is a compelling reason for redacting or withholding information from publication i.e. the presumption should always be in favour of publication rather than secrecy (Paragraph 110).
PR7	A new post of Head of Governance should be created, accountable only to Council and not to management, to be Secretary to Court, Council and Senate (Paragraph 132).
PR8	Council should identify a senior and respected lay member to act, in effect, as the Senior Independent Director (SID) or designated lay member and this member should annually appraise the Chair following consultation with Council members (Paragraph 133).
PR9	A Steering Group should be established, chaired by a lay member of Council but with staff and student Council members, to oversee and direct the implementation of our report (Paragraph 133).
PR10	A review of the University's implementation of HEFCE's recommendation in relation to the RemCo and related parts of the CUC's new remuneration code should be undertaken by an independent reviewer in January 2019 (Paragraph 143).

PR11	The membership of the RemCo should be changed to include an elected staff member of Council, one of the student members of Council and an external expert in executive remuneration, and that the revised membership be reviewed after not more than three years in the light of experience (Paragraph 157).
PR12	A student member of Council should be added to the membership of the Nominations Committee (Paragraph 164).
PR13	A review of Court should be undertaken by Council but with Court representation, to seek ways and means of modernising engagement. The aim of the Review should be to create a deeper, broader and more inclusive stakeholder engagement strategy, while preserving and enhancing the ability of stakeholders, including the public, to provide challenge and speak truth to power (Paragraph 210).
PR14	Council should consider the diversity and skills of its membership, including the appointment of lay members with considerable higher education/research/public service/voluntary sector experience as vacancies arise (Paragraph 214).
PR15	Council should consider the University's culture in the light of the Financial Reporting Council (FRC) report (see text) and our report and evidence base with a view to improving transparency, rebuilding trust and encouraging two-way communication (Table 24).

Table 3: Supporting Recommendations (SR)

Council

SR1	The self-assessment of compliance with the CUC Code produced each year should continue and its focus should be more critical with a view to continuous improvement in line with best practice from within and beyond the sector (Paragraph 61).
SR2	Council should set out good practice for appointing or electing members (Paragraph 70).
SR3	Council should review the timings and number of meetings required for the following year at its first meeting of each academic year, so that a timetabling process is not automatically followed (Paragraph 71).
SR4	At least three hours should be timetabled for Council meetings to enable full debate and challenge (Paragraph 71).
SR5	Council should consider adding an additional day to the strategy meeting to facilitate the development and engagement of Council members (Paragraph 72).
SR6	Council members should be asked to complete, at each meeting, a simple form recording those engagements they have undertaken since the last meeting so that a comprehensive record of Council engagement can be compiled (Paragraph 76).
SR7	Council committees meeting on the day of Council should not be routinely convened, partly to obviate the need for oral and tabled reports to Council on the day and partly to provide more time for engagement events such as seminars on key issues or departmental visits (Paragraph 77).
SR8	Donors to the University on Council should declare the purpose and date of gifts. The University may wish to set a minimum threshold for declaring gifts for practical purposes (Paragraph 79).
SR9	Declarations of interest should be placed formally on the agenda as the first agenda item for each meeting alongside welcomes and apologies. The Chair should specifically invite declarations at the commencement of each meeting relevant to that meeting, and this principle should apply mutatis mutandis to other committees (Paragraph 80).
SR10	Where issues are ones of more general confidence and competence, those criticised should declare their interest and not vote, but be able, with the permission of the Chair of the meeting, to defend their actions (Paragraph 83).



Council should consider whether a scheme linking members to particular academic or professional services would be beneficial, subject to linked members rotating regularly and not advocating for those areas because of the linkage.



SR11	Higher education/research experience, public life and the voluntary sector should be prioritised as vacancies on Council arise (Paragraph 86).
SR12	When compiling the Council agenda, the Secretariat should place one or two strategic issues of interest and importance to Council near the top of the Part I agenda (Paragraph 107).
SR13	The Chairs of committees should present a progress report on the work of the Committee at each Council meeting (Paragraph 108).
SR14	While avoiding excessive length, Council minutes should record more of the flavour and nuance of debate partly for transparency and partly as a matter of record (Paragraph 110).
SR15	A review of induction is undertaken after the next induction day. (Paragraph 112).
SR16	Each new member of Council should be assigned a more experienced member as a mentor (Paragraph 113).
SR17	The University should produce an accessible “How the University works” document which can form part of staff inductions and be placed on the website (Paragraph 114).
SR18	An annual appraisal scheme be put in place for all Council members (Paragraph 116).
SR19	The Secretary should sit next to the Chair to signal the accountability of the role to Council, to be readily available to provide advice to the Chair and to indicate to the Chair members wishing to speak if necessary (Paragraph 119).
SR20	Only those who need to attend the whole meeting for compelling reasons should be in attendance, with others attending part of the meeting if necessary for particular items. The Secretariat should review attendance, other than members, in consultation with the Chair and non-member attendees, with a view to reducing automatic attendance, other than the Secretariat and Director of Finance (Paragraph 119).
SR21	Where Council is approving major items of expenditure, detailed resolutions should be approved and recorded, setting out exactly Council’s expectation of those delivering the projects. This should include their monitoring, the process for dealing with material variations and the high-level contractual arrangements (Paragraph 122).
SR22	The Vice-Chair and the Nominations Committee (augmented by a student member) should adopt as open and transparent process as possible to determine the person and role description for the next Chair in consultation with the University community and other key stakeholders (Paragraph 127).

SR23	The role description for lay members should reference governance responsibilities, including challenging received wisdom and holding the Executive to account (Paragraph 168).
SR24	All committees to have an effectiveness review. It can be light touch annually but should be more formal every 3-5 years (Paragraph 194).
SR25	Professional Services staff should retain a voice on Council and Professional Services staff and Technical staff should be defined positively rather than as 'not academic staff'. Furthermore, we suggest that professional services staff are given a forum for debate, consultation and representation. This could be in the form of a Professional Services assembly which sits alongside Academic Assembly (Paragraph 93).

Remuneration and Nominations

SR26	Remuneration Committee should work systematically through the CUC Higher Education Remuneration Code (HERC) once finalised, so that an implementation plan can be submitted to Council for approval (Paragraph 146).
SR27	The provisions of section D of the Corporate Code should also be considered by RemCo. (Paragraph 147).
SR28	RemCo should be provided with data on all senior staff remuneration required to be reported to OfS under its Accounts Direction. This will provide RemCo with an overview of senior staff remuneration, in addition to those very senior staff whose remuneration is determined by RemCo (Paragraph 148).
SR29	The University should follow emerging CUC advice (and the possible OfS requirement) by publishing the remuneration of the Vice-Chancellor each year as a multiple of the median remuneration of all employees (in whatever way remuneration is eventually defined by the relevant external bodies) (Paragraph 148).
SR30	Current Professorial pay procedures should be reviewed once the new Vice-Chancellor is in post. As a minimum, we believe the review should result in greater clarity for professors as to the criteria applied to determine their remuneration, the comparative data that is used, and assurance that the outcomes have been tested for fairness and equality issues e.g. in relation to gender and ethnicity (Paragraph 149).
SR31	RemCo should receive information that enables it to be aware of the mechanisms for rewarding professors. This should also be helpful in establishing a context for the Committee in considering very senior pay (Paragraph 149).
SR32	Council should review the membership and remit of the Remuneration Committee to take account of factors we have outlined (Table 15).

SR33	A member with suitable experience should be co-opted to RemCo. A member of the Audit Committee should be invited to observe meetings of RemCo while our recommendations are, if approved, being implemented, to provide further assurance to Council (Paragraph 153).
SR34	The Head of Governance (HoG) should act as Secretary to the Committee to provide governance advice and to free the HR Director to provide professional advice (Paragraph 153).
SR35	The elected staff member of Council and one student member, proposed by the Nominations Committee on RemCo should be bound by the same duty of confidentiality as other members (Paragraph 157).
SR36	Council should set policy and parameters for senior staff remuneration and RemCo should work within them, reporting transparently and accountably to Council (Paragraph 161).
SR37	The quorum should require a lay majority to be present at meetings of the Nominations Committee (Paragraph 163).
SR38	To be consistent with our proposal for RemCo membership we recommend that a student member of Council should sit on the Nominations Committee so that students are represented on both the remuneration and nominations processes (Paragraph 164).
SR39	Council should review the remit of the Nominations Committee using the LFHE Illustrative Practice Note 7 as a template (Paragraph 165)
SR40	Council and the Nominations Committee should review the recruitment strategy for appointed Council members in the light of our advice, with a view to creating a more diverse Council, not only in terms of under-represented groups, but also in relation to background, skills, experience, cultural identity and geographical location (Paragraph 168).
SR41	The role description for lay members be reviewed (Paragraph 168).
SR42	The Nominations Committee considers the skills and experience matrix so that it assists the Committee in determining where Council has skills and experience gaps and where recruitment should be targeted. (Paragraph 169).
SR43	In respect of nominations to Council committees, lay members should be appointed on the basis of their skills and experience rather than election, and that the staff member positions should be subject to election if that is preferred by the staff members or by Nominations Committee recommendation. Student positions on sub-committees should be agreed after consulting the two student members (Paragraph 169).

Audit Committee

SR44	The name of the Audit Committee should be changed to Audit and Risk Assurance Committee (ARAC) to reflect its remit in relation to risk assurance (Paragraph 177).
SR45	Audit Committee's responsibilities in relation to other committees such as Finance Committee and Remuneration Committee should be set out clearly (Paragraph 183).
SR46	The terms of reference should explicitly set out that it is responsible for considering whether the University has adopted appropriate accounting policies and, where necessary, made appropriate estimates and judgements (Paragraph 183).
SR47	The external auditors should attend all meetings of the audit committee to share their experience on any issues raised at the Committee including examples of best practice (Paragraph 184).

Finance Committee

SR48	Consideration should be given to replacing Finance Committee or extending its remit in order to bring together human, physical and financial resources and to review performance against a set of key performance indicators and comparators (Paragraph 192).
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Joint selection committee

SR49	The Joint Selection Committee for the appointment of a new Vice-Chancellor should be disbanded following the appointment and only reconvened as required from time to time. In addition, the procedures for election to the Committee should recognise the need for gender balance and other relevant factors (Paragraph 125).
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KPIs

SR50	Council should commission a review of KPIs linked to strategy and benchmarked competitors, with a view to receiving regular reports with commentaries and RAG ratings against targets derived from the Strategic Plan against which to measure institutional advancement (Paragraph 200).
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Governance

SR51	Council should seek (a) Privy Council permission to modernise its Charter and Statutes and (b) following this approval agree new Ordinances and Standing Orders with a view to ensuring that they can be easily understood and support good governance (Paragraph 224).
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Communications and Culture

SR52	Once the new Vice-Chancellor is in post, consideration should be given to organisational development designed to devolve decision-making and empower individuals (Table 24).
SR53	The Acting Vice-Chancellor should be visible to the community and conduct informal 'Let's Listen' sessions, visiting as many departments as possible with light-touch organisation and encouragement of discourse, dialogue and constructive challenge (Table 24).
SR54	Council should consider ways in which it can become more open and visible in its communications and engagement with the community (for example a more engaging and lengthier summary of Council discussion written by a staff member with internal communications experience and circulated as an e-news update), and open and informal meetings with staff and students across the University (Table 24).
SR55	Council members should be invited to key University events and attend where possible (Table 24).

REVIEW CONTEXT

The Governance Model of Chartered Universities

43. Universities such as Bath, incorporated by Royal Charter, are frequently referred to as the “old” or “pre-1992” universities to distinguish them from the former polytechnics which were established as universities by the 1992 Further and Higher Education Act. In this report, we use the term “chartered universities” to describe around 65 universities in the UK incorporated by Royal Charter. In essence, chartered universities (in furtherance of their academic objectives) can do anything within the law a real person can do e.g. sue and be sued, buy and sell land and buildings, employ and dismiss staff and own and invest money at home and overseas.

44. In chartered universities, university legislation typically follows a hierarchical pattern. At the top is the Royal Charter itself which sets out in broad terms the powers of and arrangements for

the university. Next come the Statutes which set these out in more detail, then in increasing detail Ordinances and finally Regulations. For example, the Charter will state that there must be a Council as the governing body having general control over the conduct and affairs of the University, the Statutes will specify the categories of membership and powers of the Council, Ordinances will specify arrangements, for example, for elections to Council and regulations tend to be made by Senate to regulate the academic work of the University.

45. The Privy Council Office oversees the legislation of chartered universities, although now is mainly concerned to ensure that there is a majority of independent members and staff and student representation on Council, that academic freedom is protected and that appropriate arrangements are in place for the appointment and dismissal of the Vice-Chancellor and academic staff. Some universities have sought amendments to their



The Dearing report recommended that Councils be reduced in size to fewer than 25 members and the trend in recent years has been for smaller Councils.



Charters and Statutes which makes these documents relatively brief and thus significantly reduces the areas where Privy Council approval is required. Others, like Bath, have not done this and so Privy Council approval is required for many of the detailed aspects of governance. The Privy Council must approve changes to the Charter and Statutes. In the case of the Charter this requires a special resolution process passed by Court on the recommendation of Senate and Council, and in the case of Statutes, approval by Council. Council can make Ordinances and Senate can make Regulations. Some of our recommendations will require changes to University legislation and are therefore subject both to the agreement of the University and, where applicable, the Privy Council.

Court, Council and Senate

46. In the nineteenth and early twentieth centuries, the new civic universities often based in the great Northern cities powering the industrial revolution e.g. Birmingham, Manchester, Leeds and Sheffield consciously wished to depart from the medieval “community of scholars” governance model exemplified by Oxford and Cambridge. They wished to be rooted in their local communities and to serve local people. In his history of the University of Birmingham, Professor Eric Ives⁸ quotes Joseph Chamberlain, the founding father of the University, stating that the new university should be for “the Midland region” and would be “redolent of the soil and inspired by the associations within which it exists”. In order to reflect the region (and encourage financial support!) Chamberlain

envisaged a “Court of Governors” (some 200 in number) as the “supreme governing body”. Even then (1900), however, control of land, buildings, investment and employment was invested in a much smaller Council. Until the Dearing⁹ review of higher education in 1997 made it clear that Council must be the unequivocal supreme governing body, it was still common for Court to be described as supreme in civic university legislation, although in practice that had long ceased to be the case. It should also be noted that in Scotland the Court is the equivalent of the Council in the rest of the UK.

47. The governance model established by the civic universities was largely adopted by the wave of new chartered universities established after the 1963 Robbins¹⁰ Report. This included the then Bath University of Technology in 1966 i.e. a large Court meeting infrequently with few powers, a much smaller Council responsible for strategic oversight, land, buildings, staff and investments and a Senate comprising academic staff and responsible for academic activity, including the award of degrees and diplomas, maintaining academic standards, quality assurance, assessment and enhancement.

48. The Dearing report recommended that Councils be reduced in size to fewer than 25 members and the trend in recent years has been for smaller Councils (Bath has 26 members). The requirement for a lay (i.e. non-executive) majority and staff and student representation means that it is impractical for chartered universities to have councils of much fewer than 20 members, while maintaining a clear lay

⁸ The First Civic University: Birmingham 1880-1980, Ives E, University of Birmingham Press 200 pp 130 - 133

⁹ National Committee of Inquiry into Higher Education, July 1997

¹⁰ Committee on Higher Education, September 1963

majority and allowing for some apologies at meetings. Some argue that 20-25 members is too many to conduct business efficiently (e.g. the Lambert Report¹¹ proposed 12-18) and draw comparisons with universities incorporated by the 1992 Act which tend to have smaller governing bodies, or other sectors which have much smaller boards of around ten people, comprising non-executive and executive directors e.g. the private sector and NHS trusts. However, the current model has proved successful and resilient with the UK's chartered universities proving popular with staff and students and well-regarded globally.

Universities as charities and their regulation

49. Universities are private corporations with a public purpose. They enjoy a high level of autonomy, which is protected by law in England and Wales. Since they exist for a charitable purpose, i.e. the advancement of education, universities are charities (generally exempt charities within the meaning of the Charities Act 2011 i.e. not registered charities with a registration number) and the members of the governing body are therefore also trustees of the charity. Until its demise, HEFCE was the Principal Regulator of most English universities on behalf of the Charity Commission. From 1 April 2018, the English sector is regulated by the new Office for Students (OfS).

As a courtesy, we invited HEFCE and OfS to contribute to our review. Given their regulatory roles, neither felt it was appropriate to do so.

The University of Bath

50. The Robbins Report recommended that the then Bristol College of Science and Technology should become a university. Following a chance conversation between the College's Principal, George Moore and Bristol's Director of Education, Bath University of Technology was incorporated by Royal Charter in 1966 to succeed the Bristol College, occupying a site made available by the City of Bath on Claverton Down. Moore became the founding Vice-Chancellor. In 1966 there were 1145 undergraduates, 115 postgraduates and 470 members of staff. The Charter anchors the University in science and technology, in close association with industry and commerce. Academic programmes with a placement year in business and industry have long been a popular and important feature of Bath's programmes.
51. In 1971, Bath University of Technology became the University of Bath. The current mission of the University, as expressed in its strategic plan, is "to deliver world-class research and teaching, educating our students to become future leaders and innovators, and benefiting the wider population through our research, enterprise and influence". The vision is "to be recognised as an international centre of research and teaching excellence, achieving global impact through our alumni, research and strategic partnerships." The University's values are set out in Table 4 below. As the governing body, Council holds the ultimate responsibility for living the values and ensuring that the mission and vision is achieved.



Council holds the ultimate responsibility for living the values and ensuring that the mission and vision is achieved.



¹¹ Review of Business/ University Collaboration, Lambert R, 2003

Table 4: The Values of the University of Bath

- Delivering quality and excellence;
- Nurturing high aspirations;
- Supporting freedom to challenge received wisdom;
- Aspiring to the highest standards of scientific and professional integrity;
- Working responsibly and with respect for others;
- Fostering equality, diversity, inclusivity and accessibility;
- Adopting best environmental practice.

52. In 2016/17, the University had some 17,000 students, 13,000 undergraduates and in excess of 4,000 postgraduates, with over 30% coming from outside the UK. There are some 3,350 staff and the University turns over approaching £300m a year. It is financially sound although, like all UK universities, is facing challenges. It is highly rated, particularly in domestic rankings where it is typically in the top ten or fifteen depending on the league table. Internationally, Bath is ranked among the top 200 universities in the world. Graduate employability is strong, 87% of research in the 2014 Research Excellence Framework (REF) is defined as world-leading or internationally excellent and the University is gold-rated in the Teaching Excellence Framework (TEF). Bath is currently Sports University of the Year, and has the top-rated Schools of Architecture and Marketing in the latest Complete University Guide. The University is a member of the Athena SWAN (Scientific Women's Academic Network) Charter and holds 11 departmental awards in addition to a University Award.

Corporate Governance in Other Sectors

53. Our remit requires us to assess the effectiveness of Council in particular in relation to the CUC Code but also in relation to good governance in other sectors. Our team includes expertise in private sector, NHS and further education corporate governance¹² and we have drawn from practice and guidance in those sectors in compiling this report. In particular, we commend the UK Corporate Governance Code¹³ which has been the gold standard for private companies since the original Cadbury Code in 1992. The current Code (consultation has recently closed on a revised version) defines corporate governance as “what the board of a company does and how it sets the values of the company. It is to be distinguished from the day-to-day operational management of the company by full-time executives.”

54. A striking feature of the Code is its focus on corporate culture as well as compliance. The culture and tone set by the board is of growing interest in corporate governance since, if compliance is not accompanied by, as Professor Raymond Williams described culture, “right knowing and right doing” then the operation can be a success, but the patient can die. There are many examples of apparently compliant, audited corporations failing through catastrophic mistakes resulting from governance shortcomings e.g. a focus on profit before safety, or perceived messages from the top of organisations that misconduct and unethical practices will be tolerated in the pursuit of corporate goals.



A healthy corporate culture is one where the testing and challenging of received wisdom (the very heart of academic freedom) is not only tolerated but celebrated and encouraged. This promotes openness, transparency and innovation, not only at board level, but throughout the organisation, as all levels of management tend to take their cue from the top.



¹² Annex 3

¹³ The UK Corporate Governance Code Financial Reporting Council April 2016 accessed via www.frc.org.uk

55. A healthy corporate culture is one where the testing and challenging of received wisdom (the very heart of academic freedom) is not only tolerated but celebrated and encouraged. This promotes openness, transparency and innovation, not only at board level, but throughout the organisation, as all levels of management tend to take their cue from the top.

56. The NHS has a number of governance resources available to the Boards of NHS Trusts, Foundation Trusts and other NHS organisations, including toolkits and checklists of good governance. A particularly useful resource is the Healthy NHS Board¹⁴ published by the NHS Leadership Academy. Again, the focus is on culture in the light of failings in patient safety and care in recent years. A striking passage refers to corporate culture as follows:

“Where the NHS has failed patients on quality, too often a dysfunctional board has focused in the wrong areas and without the appropriate governance arrangements in place to improve quality for patients.

While this guide does set out processes and systems to support good governance, the main focus is on the importance of building an open and honest organisational culture. Checklists have their place, but good governance results from grounded debate and good judgement.

Strong boards don't build walls around themselves. They look out to their patients, to their communities and to their partners, and build strong relationships. In future, we expect boards to play their part in shaping how

partners and other organisations are working together, particularly around patient pathways.”

57. In further education, the Association of Colleges produces a Code of Good Governance for English Colleges which bears many similarities to the CUC Code. A notable feature of the AoC is the comprehensive resources provided for governors. Since the AoC is an association of Colleges rather than Vice-Chancellors (UUK) or Chairs (CUC) it is able to provide resources for all governors and staff e.g. every member college governor receives weekly email updates on national and regional developments, including governance resources and events. The AoC website contains much useful governance information accessible in part to non-members.

Compliance with CUC Code

58. The Code sets out (a) the requirements that must be met or exceeded to comply with the primary elements of Code and (b) the activities that should normally be conducted to achieve the primary elements of the Code.

59. We have reviewed the University's current and historical compliance with the Code and have concluded that the University is compliant (although this is arguable in respect of evidence of transparent reporting in the past from RemCo), but that the Committee is now showing a strong willingness to improve the transparency of its decision-making and reporting. The University has committed to implement the forthcoming CUC HE Remuneration Code. This, combined with the implementation of our recommendations, if approved,



Strong boards don't build walls around themselves. They look out to their patients, to their communities and to their partners, and build strong relationships.



¹⁴The Healthy NHS Board Principles for Good Governance accessed via www.leadershipacademy.org.uk

should result in the University exhibiting good and emerging leading practice in this area.

See Annex 6 for more detail.

60. In addition, we have also made recommendations and suggestions more generally where compliance could be improved. An example of this would be in respect of Academic Governance where we have accepted there is compliance because of the significant academic membership of Council but there are opportunities to improve the quality of discussion and challenge at Council in respect of the Annual Provider Review. In addition, regular effectiveness reviews of the Senate sub-committees would improve the assurance of academic governance. Other recommendations and suggestions for improvement cover areas such as:

- Declarations of interest
- Improving discussion and challenge at Council generally
- Increasing openness and transparency in respect of Council's business
- Size and composition of Council including nominations

61. The University Secretary presents an annual self-assessment of compliance with the Code. We commend this process and believe it should continue. However, we **recommend** that its focus should be more critical with a view to continuous improvement in line with best practice from within and beyond the sector.

Council

62. At the core of our review is the Council and its Committees. In this section, we deal with issues including membership, paperwork, quality and quantity of discussion, frequency and length of meetings and outputs from our observations of Council meetings and interviews with Council members. We were pleased to identify areas of good practice and offer a number of recommendations for development.

Council Membership

63. The membership of Council is set out in section 16.1 of the Statutes. Of the total of 26, 7 are *ex officio* i.e. the three Pro-Chancellors appointed by Court on the recommendation of Council, the Vice-Chancellor, the Treasurer (appointed by Council), the Deputy Vice-Chancellor and the Chair of Academic Assembly. Of these the Pro-Chancellors and the Treasurer are lay (i.e. external non-executive) members, the Vice-Chancellor and Deputy Vice-Chancellor are the two most senior executive officers of the University and the Chair of Academic Assembly is a member of the academic staff.

64. There are ten lay members appointed by Council on the recommendation of the Nominations Committee (see below), of whom one is the Chair of Council. The Convocation (i.e. alumni association) appoints a member to Council who is not a member of staff.

65. There are six elected members, four elected by and from Senate (the academic authority of the

University), and one elected from Academic Assembly members on Senate. One member of staff other than academic staff is elected by staff other than academic staff from among their number. Finally, two members are appointed by the Students' Union from among student members of Senate.¹⁵

66. Section 9 of the Statutes requires the Council to appoint a University Secretary and section 10 requires the Council to appoint a Secretary to the Council. Both roles are currently held by the University Secretary, but presumably they could be held separately since the Statutes provide for both posts. A more usual formulation in other universities, although practice varies, requires the appointment of a Registrar/Secretary who acts as Secretary to Court, Council and Senate. In the private sector, schools, further education and the NHS it is usual for a Company Secretary or Clerk to the Board to be appointed, responsible and accountable to the Board through the Chair for governance matters and with no management responsibilities.

67. Fifteen senior academic and administrative managers are listed as routinely attending Council meetings, meaning that over forty people would be present in the Council Chamber for a fully attended meeting.

68. Members of Council are not remunerated for their work on Council.

Appointment of Council Members

69. The arrangements for elected members of Council are appropriately set out in

Ordinances. The appointed members are appointed by Council on the recommendation of the Nominations Committee (discussed below). The Nominations Committee and Council annually review a matrix of skills represented by current Council members and any gaps that need to be filled. In addition, the Nominations Committee is provided with information on the diversity of Council. At present, Council has eight female members out of a total of 25 (one place is vacant) i.e. fewer than a third are female. However, it is over 30% which is the minimum benchmark Council has set itself as a member of the 30% Club. There are no members currently declaring a disability. Like many university governing bodies, the Council does not fully reflect the cosmopolitan nature of the University community. We consider issues relating to the appointment of Council members in more detail in the section on the Nominations Committee below.

70. The University has made some progress towards its ambition for equality of membership and the proportion of female members has increased in recent years. The University specifically encourages applications from under-represented groups in its recruitment arrangements, and vacancies for appointed members are publicly advertised. Bath is not out of line with the higher education sector in the composition of its Council, however, the sector recognises that further engagement on this issue is needed. Whilst gender ratios have improved at Bath in recent years, other minority groups are still under-represented. Council is only able directly to influence the diversity of the ten members it appoints as the other members are elected or



The University has made some progress towards its ambition for equality of membership and the proportion of female members has increased in recent years.



¹⁵ Annex 7

ex-officio. We **recommend** that the University sets out good practice for appointing or electing members and **suggest** it considers the best practice outlined below.

Table 5: Board recruitment practice to encourage diversity

- If not already done so, equality data is collected on recruitment applicants to assess the effectiveness of under-represented groups.
- Advertisements should carry statements which are tailored to the specific characteristics that Bath wishes to encourage rather than simply carrying a generic equality statement.
- Shortlists are not taken forward if they are single gender or all White. In such instances vacancies can be re-advertised.
- Council members commit to training which enables them to learn about lived experience of others with different characteristics.
- Those carrying out selection should be trained in fair selection processes, be aware of their own unconscious biases and be knowledgeable in equality and diversity.
- Those bodies electing members are also asked to self-reflect on their own selection processes and to make, where necessary, amendments to such processes to ensure that members are chosen in a fair, equal and inclusive way. It may be useful for these groups to reflect back on the characteristics of those who have been nominated in the last 5 years (e.g. are these primarily white males?).

Number, length and timing of meetings

71. Council typically meets five times a year for around two hours at 4:15pm. One of these meetings is also an annual strategy day held at the beginning of each academic year and Council members have other opportunities to have informal lunches and dinners or to attend University events such as graduation. The HEFCE report referred to in paragraph 3 above, in response to concerns from a complainant external to the University, commented: “We do not consider the number of routine meetings of the Council of the University of Bath to be unusual or insufficient to carry out its business”.¹⁶ HEFCE goes on to say that the time taken by Bath’s Council on its business in 2016/17 “was not unusually light and there is no reason to believe that it was insufficient to carry out its business.” Our interviews and responses to the survey have, however, sometimes indicated that Council meetings can appear rushed. A late afternoon meeting tends to be convenient for members in work, it can be less so for those, for example, with caring responsibilities. Council meetings need to be timed for the convenience of the majority of members, which may change over time. We **recommend** that, at its first meeting each academic year, Council should review the timings and number of meetings required for the following year so that a timetabling process is not automatically followed each year. We also **recommend** that at least three hours are timetabled for Council meetings to enable full debate and challenge.

72. We agree with HEFCE that the number of business meetings is appropriate but, in addition to

¹⁶ ‘Report of an enquiry into a governance matter at the University of Bath’ accessed via www.hefce.ac.uk

the strategy day a development day could be helpful, either freestanding or by making the strategy meeting residential over two days. This would have the advantage of both developing Council members and enabling them to interact more in informal settings. We **recommend** that Council considers an additional day to the strategy meeting to facilitate the development and engagement of Council members.

Engagement

73. The University asks its lay members (other than officers) to commit around a day a month to Council and associated activities. They are also asked to be members of at least one Council committee and are all members of Court which holds at least one meeting within fifteen-month periods. Preparation for and attendance at meetings can easily therefore take up all the suggested time. However, the survey, some interviews and group discussions indicate that Council is seen as remote and disengaged. We recognise that there are limits on the time that lay members in particular can give pro bono. We are aware of some universities which ask for 15-20 days rather than 12. In our view, the right answer lies between a minimum of 12 and a maximum of 20 for unremunerated members (the question of remuneration is not considered here other than to suggest that CUC will need to consider it at some point in terms of guidance given the increasing pressures and the need to attract Council members who cannot afford to give their time pro bono).
74. Again, in our experience, Council requires a mix of commitment. Some high-profile members may be London-based and time-

poor, but can provide huge value in short bursts; others may be locally based and able to give more time for engagement. It should also be borne in mind that lay members should not be too closely involved with the day-to-day life of the University since they are non-executive. If they are too closely associated, for example, with certain academic areas there is a danger that they will advocate, or be thought of to advocate, for them thus compromising impartiality. Council members always act in the best interests of the whole University as Trustees and must therefore avoid too close an association with particular areas.

75. Having said that, we do believe Council should respond to the clear desire of the community we have engaged with for them to be more visible. Council members should be receptive to invitations for them to visit academic, professional services or student areas and these might be incorporated into Council meeting days. Council members should be invited to key University events and attend where possible.
76. We **recommend** that Council members should be asked to complete, at each meeting, a simple form recording those engagements they have undertaken since the last meeting so that a comprehensive record of Council engagement can be compiled.
77. Council committees currently sometimes meet on the day of Council. We understand the convenience of this but **recommend** that it should not be routine, partly to obviate the need for oral or tabled reports to Council on the day and partly to provide more time

for engagement events such as seminars on key issues or departmental visits.

78. Lay members in interviews have welcomed recent innovations to hold lunches and dinners to enable them to interact informally and be kept informed. It is appropriate for the lay members to meet together occasionally without the staff and student members, indeed this is normal practice to do this periodically in the corporate sector. However, care should be taken to avoid the feeling that there are two classes of Council member rather than one Council. The meeting must never seek to make decisions which fall to the full Council, and lay members need to be very aware of the perceptions to which these meetings can give oxygen.

Declarations of Interest and associations on Council

79. In line with the CUC Code, the University maintains a register of members' interests and of gifts and hospitality. We have inspected the register and noted that it is annually updated. Our conversations with Council members assure us that they take actual or perceived conflicts seriously and are well aware of their responsibilities. While members are under no obligation to declare former employment, where they have held senior positions in organisations which supply, have supplied or may supply goods and/or services to the University, we **recommend** that they declare them, particularly if they are in receipt of pensions or dividends derived from their previous association with those suppliers. We accept that such members play no part

in procuring suppliers they may have previous associations with and they do declare previous interests as appropriate in Council meetings, but in the interest of complete transparency, we advocate full disclosure. We also **recommend** that any donors to the University sitting on Council should declare the purpose and date of gifts. The University may wish to set a minimum threshold for declaring gifts for practical purposes.

80. The calling notice for each meeting of Council reminds members of the relevant Standing Order requiring declarations of interest at each meeting at the earliest opportunity. In order to reinforce this, we **recommend** that declarations of interest are placed formally on the agenda as the first agenda item for each meeting alongside welcomes and apologies, and that the Chair specifically invites declarations at the commencement of each meeting relevant to that meeting.

81. There is a view among some staff and students that membership of Council has been too closely associated with certain accountancy and law firms. The incoming President of the Students' Union has mapped these following a freedom of information request. It is the case that a number of Council members have been drawn from these firms in recent years, but in the case of the global accountancy firm, that is true in other universities. It is also the case that partners of local law firms often bring expertise which is useful to universities around the country. There is no suggestion from anyone that rules have been broken but, when governance comes under pressure, these sorts of

associations come under scrutiny because people feel that lay Council membership becomes a self-perpetuating group of people drawn from similar backgrounds and social circles. We believe that our recommendations in relation to equality and diversity in relation to the Nominations Committee will lead to a more diverse lay membership. We do emphasise, however, that complex organisations like universities require sophisticated legal and financial knowledge and experience on their governing bodies, so it will be important to retain strong business expertise on Council.

82. In the light of the HEFCE report, which held that members of the Remuneration Committee and senior staff whose remuneration was decided by it, should have declared an interest at the Court meeting in February 2017 (considered further in the Court section below), senior members of the University now tend to take a very cautious approach. For example, at the January 2018 Court meeting they essentially took little part in the proceedings. We have also seen advice from Leading Counsel commissioned by the University, relating to the Court meeting, which sets out nuanced arguments about conflicts in different settings i.e. advisory or decision-making. A strict application of the HEFCE conclusions might have the effect of diminishing rather than enhancing transparency and accountability, if senior officers take the view that they cannot comment on issues where they have declared an interest. It could also be argued that any member of staff would be conflicted in raising concern about their own or others' remuneration without the legal protection of being a trade union representative, or

that students should not make representations about rents in University accommodation they occupy.

83. At the February 2017 Court meeting, members sought to make representations to Council relating to concerns over the transparency and accountability of the Remuneration Committee and its decisions. It is common ground that Remuneration Committee members and relevant senior staff should, like the then Chair of the Committee, have declared their interest and did not do so, but does it then follow that they cannot defend themselves? If senior members of the University are silent when criticised, then accountability is undermined since critics are effectively speaking into a void. Our view is that when a conflict clearly refers to a direct or indirect pecuniary interest, those affected should declare that interest and leave the room if the Chair so directs. Where, however, the issues are ones of more general confidence and competence, we **recommend** that those criticised should declare their interest and not vote, but be able, with the permission of the Chair of the meeting, to defend their actions. It seems to us that this satisfies natural justice and increases transparency and accountability since those present can assess both the case for and against the proposed censure or expression of concern or lack of confidence.

Size and Composition

84. As noted in the Council membership section above, Council at full strength comprises 26 members, at the upper end of the distribution of chartered universities in terms of the size of their Councils (or Boards of



complex organisations like universities require sophisticated legal and financial knowledge and experience on their governing bodies.



Trustees in a small number of cases). A number of interviewees felt that Council was too large for effective debate, even though not all members can attend every meeting. There is universal recognition that Council needs to be more diverse in terms of the background of its members, whether this be in terms of under-represented groups, life experience, demography, occupation or social class. The revised nominations process we describe below in the Nominations Committee section has the potential to create a more diverse Council over time.

85. Council, through its nominations process, appoints fewer than half of its members. The others are ex officio or appointed or elected by other bodies. The ten members appointed by Council currently in office, including the Chair and Treasurer (there is one vacancy), are all unquestionably distinguished and accomplished individuals who meet the requirements of Council's skills matrix. They have varied backgrounds and are not therefore easy to categorise, e.g. moving in some cases between the public and private sectors or working in the private sector but holding public appointments. However, broadly speaking, four are drawn from a professional services background, four from business including construction, media, the extraction industries and facilities management, one from the public sector and one from the voluntary sector. It should be noted that the three Pro-Chancellors also have business backgrounds, with one in addition having served in the Diplomatic Service.

86. Council is therefore well-blessed with a range of expertise from

the business world. A particular gap that some interviewees have identified relates to higher education/research experience both in national and international contexts. Senior executives feel that this would encourage challenge and debate in relation to academic matters discussed at Council e.g. provider reviews, student surveys etc. and some lay members would welcome assurance on higher education matters from a non-executive as well as executive channel to help triangulation. Other desirable experience advocated through the consultation is public life, and the voluntary sector. We **recommend** that these areas: higher education/research experience, public life and the voluntary sector should be prioritised as vacancies arise. In relation to higher education, it will be important to identify individuals with contemporary experience of universities and research who bring their expertise to bear, but recognise that they are not there to second-guess the executive function but to act as critical friends.

87. On occasion, caricatures can be created between the notions of universities as utilitarian businesses run by plutocrats and Cardinal Newman's¹⁷ ideal of a community of scholars pursuing knowledge for its own sake. In our experience carrying out interviews for this review, academics, students and lay members share a number of attributes. They are without fail diligent, and deeply committed to the University, academic freedom, its students, graduates, research and success. There is more that unites than divides them, so caricatures on either side of the argument are unhelpful. The University needs all their skills and experience to enable it to fulfil its mission and



In our experience carrying out interviews for this review, academics, students and lay members share a number of attributes. They are without fail diligent, and deeply committed to the University, academic freedom, its students, graduates, research and success.



¹⁷ Newman, John Henry, *Idea of a University*, lectures 1852

vision. We also wish to record the enormous sense of pride in the University that we encountered universally throughout our process. This bodes well for the future.

88. In relation to the size of Council we accept the argument that it is too large and that a smaller Council will encourage and facilitate debate, and we therefore **recommend** that the size of Council be reduced to nearer 20 members. We believe that this will result in a more effective Council. We do not wish to be prescriptive about how the reduction in size can be achieved, but we put forward suggestions below (Table 6, page 34).

89. Because of the need to ensure a lay majority, staff and student representation, populate committees, allow for absences and to enable sufficient time for Council members to participate in the life of the university, it is challenging and probably undesirable to have a chartered university governing body much under 20 members. A prerequisite of a smaller Council will be members fully committed to attending (the attendance of some current members is patchy) and a willingness to devote more time than currently in most cases to the work of Council. Other universities we are aware of which have reduced the size of their Councils would not go back to a larger body and have not noticed adverse effects on their ability to recruit members or improve diversity.

90. The University can appoint up to three Pro-Chancellors, but there is no requirement to do so. Many universities operate quite happily with two. We would not **recommend** that the number of

executive members be reduced since there are currently only two, the Vice-Chancellor and Deputy. Equally, the University currently demonstrates good practice in our view in having two student members who can support each other in what otherwise might be an intimidating and unfamiliar environment. We also commend the University, as an aside, for having the Students' Union CEO in attendance at Council, since this helps continuity between student members and enables the CEO to brief student members and support them if necessary in the meetings.

91. Although there have been concerns expressed that the academic voice is not heard on Council, if this is the case, it is not through lack of academic representation. Many universities just have three or four academics elected by Senate, whereas Bath has four plus two representatives of Academic Assembly. From our observations of Council meetings, academic members contribute fully and more so than in other university councils we have observed.

92. Not all universities have retained a member appointed by Convocation (or indeed Convocation as such) but we do not propose this change since we have not reviewed Convocation as part of our remit and the University is in a better position to judge, with Convocation, whether that would be a possibility in Bath's circumstances. In any case to do so without creating an additional lay position would create too narrow a lay majority. In the context of bodies nominating members to Council we note a view expressed by a small number of interviewees regretting that the local authority,



the University currently demonstrates good practice in our view in having two student members who can support each other in what otherwise might be an intimidating and unfamiliar environment



Bath and North-East Somerset, no longer nominates a member to Council. This used to be common in chartered universities, but is less so now in the light of a corporate governance requirement (across sectors not just in HE), to create Nominations Committees responsible for recommending non-executive members. The advantage of this is that, rather than simply accepting a nomination from a third party, boards can influence the balance and diversity of their membership through public advertisement, skills and diversity matrices and careful appointment processes. Councils should be responsible for appointing their members. Third party nominees from local authorities also have built in conflicts e.g. in relation to planning. We understand the concerns of those who wish to reinstate the practice, but we believe that ship has sailed and that the best way to retain good relations with the local authority is through strong liaison led by the Vice-Chancellor and the senior team, mutual understanding and recognition of co-dependence. We **conclude** that the way forward is to reform and strengthen the nominations process rather than reinstate more third-party nominations.

93. It is important that Professional Services Staff retain a voice on Council so no change is proposed to that position. We think that this position should be defined not by what it is not i.e. not an academic but by what it is i.e. a representative of the professional staff who comprise three of the University's four job families and are a majority of staff. As an academic institution, it is appropriate that Senate and the academic community are well-represented on Council, especially following the creation of the OfS,

but it should also be noted that, increasingly, successful universities provide a seamless web of support for education, research and the exchange of knowledge through partnership and parity of esteem between academic and professional staff. It is in this context that we **recommend** that Professional Services Staff and Technical and other support staff should be defined positively rather than as 'not academic staff' and the creation of a Professional Services Assembly or other forum for debate, consultation and representation, is considered to sit alongside Academic Assembly, given that professional and technical staff comprise three of the University's four job families.

94. The above implies, in our view, that the only scope for reducing the size of Council without major perturbation lies in reducing the number of Pro-Chancellors (from three to two), the number of appointed members (including the Chair, Treasurer and Convocation) from eleven to say nine, those elected by Senate from four to three and reducing Academic Assembly representation from two to one. This would give a Council, including the unchanged membership, of 21 and a lay majority of 3 compared with 4 at present.

95. We recognise that a reduction in the number of academics on Council may well cause concern in the University community, but we emphasise that the proposal actually results in a slightly reduced lay majority. It is the quality rather than the quantity of representation which is important. If our proposal to reduce the size of Council is approved a possible model would be as follows:



Academic members contribute fully and more so than in other university councils we have observed



Table 6: Suggested Changes to

Membership of Council

	Current	Future
Pro-Chancellors	3	2
Vice-Chancellor	1	1
Deputy Vice-Chancellor	1	1
Treasurer	1	1
Academic Assembly	2	1*
Convocation	1	1
Chair of Council	1	1
Lay Members appointed by Council	9	7
Senate	4	3
Professional Staff	1	1
Students	2	2
Total	26	21
Lay Majority	4	3

*Academic Assembly should decide whether its Chair should continue to be ex officio or whether it should be represented by a member elected from its Senate membership.

Attendance and Quorum

96. We noted that there was not a lay majority present in either of the two meetings of Council we observed in January and February 2018. We recognise that the January meeting was an additional one which made it more difficult for lay members to attend, but lay apologies were actually higher for the scheduled February meeting. We also recognise that HEFCE in its report did not feel that a small number of absences materially affected the work of the Council. Nevertheless, it is good corporate governance practice to have a non-executive majority on

boards. The University's Charter and Statutes require a lay majority on Council and it is a requirement of the CUC Code. The University is compliant with the Code in having a lay majority constitutionally but, in our view, it is important for a lay majority to be physically present at Council meetings as well. The quorum for a Council meeting set out in Standing Orders is nine, of whom at least five shall be lay. Other than additional or special meetings, Council meetings are scheduled well in advance, so it should be possible to secure a lay majority as the norm. We appreciate that our proposal to slightly reduce the lay majority may seem counter-intuitive in this context but our experience of other universities leads us to believe that lay members will make a greater effort to attend a smaller Council in the knowledge that their attendance is critical to debate and a non-executive majority. Council's Standing Orders provide remedies for consecutive non-attendance without good reason. We **recommend** that every effort is made to ensure a lay majority at all scheduled meetings of Council.

Periods of Office

97. We have examined the periods of office of Council members as set out in section 16.2-16.7 of the Statutes and also looked at the actual length of appointments to Council in recent years. We have done this against the background of the Nolan principle relating to standards in public life that there should be rotation of members of public bodies (which includes universities for this purpose) and the CUC Code element 7.3 requirement that governing bodies **must** "establish a Nominations Committee.... to advise on the appointment of members and the terms of



The University is compliant with the Code in having a lay majority constitutionally but, in our view, it is important for a lay majority to be physically present at Council meetings as well.



existing members...". We consider the Nominations Committee further below.

98. Appointed members of Council serve for three years possibly renewable for another three years and cannot be re-appointed until at least a year has elapsed after the sixth year. It is common in universities for the clock to start ticking again if a member becomes an officer e.g. Chair or Pro-Chancellor. In Bath, this formulation seems to have been used quite extensively to retain members on Council for long periods with examples this century of ten years plus of membership of Council and one of 13 years. Bath is unusual in appointing lay members for up to six years; a more usual formulation is 3 x 3 or 2 x 4. This is the recommended maximum in the Scottish Code of HE Governance. This may be the reason why Council members who have served six years tend to return in another capacity, thus giving the impression of a "revolving door" of lay Council membership.

99. We therefore **recommend** that absolute time limits be placed on Council membership (lay and elected staff) wherever possible and that once the maximum period has been served, members be ineligible to return to Council i.e. the fallow period is abolished. Our recommended practice for Council terms of office is outlined in Table 7 below.

Table 7: Recommended Terms of Office for Council members

- Lay members of Council maximum of 9 years i.e. 3 x 3 years subject to review at the end of each period.
- Pro-Chancellors, Chair, Vice-Chair and Treasurer absolute maximum (exceptionally) of 12 years as a member of Council. If appointed to office in first 6 years of Council membership maximum 2 x 3 years as an officer; if in final 3 years maximum 3 years in office.
- Elected staff members absolute maximum of 9 years i.e. 3 x 3-year terms.
- Existing members should be permitted to complete their current terms of office but not be renewed if to do so would exceed these limits.

100. One option Council may wish to consider is moving to a position where the Pro-Chancellors are not members of Council. This would enable Council members to serve their full term and then be eligible for a Pro-Chancellor role. There may be a virtue in the role being more ceremonial and ambassadorial and having some distance from the governing body, thus enabling two independent members to be appointed to Council in their place.

The Student Voice and Reserved Business

101. In our observations of Council meetings, the voices and views of students were clearly articulated and listened to. Advocacy of the student experience in areas such as accommodation



In our observations of Council meetings, the voices and views of students were clearly articulated and listened to.



and sport as well as academic programmes was observed, alongside a concern for student welfare in terms of financial and mental health issues. Our interviews generally exhibited a strong commitment to students, although occasionally a feeling that student representation, while widespread and well-embedded, could be tokenistic and that deeply-felt student concerns e.g. over pressures on the Main Library were not, in their view, receiving adequate attention. The efforts of the Students' Union to consult its members, be inclusive and to listen as well as broadcast were felt by some interviewees to have wider application for the University as a whole.

102. Some interviewees feel that, while the student voice is heard, it is primarily that of full-time, undergraduate home students and that the views of postgraduates and students from outside the UK are less well-represented at Council. The Students' Union is aware of this criticism and is taking steps to address it e.g. through the appointment of a full-time postgraduate officer. Our remit does not cover the Students' Union, which is a separate organisation from the University with its own Board of Trustees but, insofar as the inclusivity of the student voice is represented on Council, we would encourage the Students' Union to pay attention to the concerns and to do all that it can in preparation for Council meetings to ensure that the concerns of all students are represented.

103. Unlike many universities, Bath retains reserved business whereby student members are asked to leave Senate and Council meetings when

matters pertaining to individual staff or students or the award of honorary degrees are considered. Reserved business is a hangover from the student protests of the 1960s which led to students becoming members of governing bodies provided they were not involved in discussion of individual student and general staffing matters. It is now widely regarded as anachronistic and paternalistic. The way to deal with any issues that arise through student members having conflicts e.g. by knowing students and staff under discussion is the same as for other governors i.e. declaration of interests. All Council members should be treated in the same way since they are all Trustees with the same individual and collective responsibilities and accountabilities. We **recommend** that reserved business be abolished. This will require a change to Statutes. It follows from this that we **recommend** that students be represented on the Honorary Degrees Committee since the work of that Committee is currently captured by the rules on reserved business.

Trustees or Delegates?

104. The CUC Code is clear that members of governing bodies are charitable trustees, with the legal and ethical responsibilities that accompany such positions of trust. In our interviews, members were clear about their responsibilities and the need to put the interests of the University before their own personal views. However, those elected by or who are members of constituencies such as students, Convocation, academic and professional staff are conscious of the need to reflect

the views and best interests of those who elected them. This is understandable and, indeed, the fact that they are drawn from those constituencies reflects their importance to the University. However, first and foremost, Council members are Trustees responsible for the stewardship of the whole institution and need to be careful not just to reflect the views of their constituencies (or personal opinions for that matter) but listen to other views and always act in the best interests of the University as a corporate body. This is made clear to new members of Council at induction, which we welcome.

Quality and Quantity of Information

105. Our survey, interviews and observations indicate general satisfaction with the quality and timeliness of Council paperwork. As is often the case with board members, there are concerns about the sheer quantity of information and the ability to see the wood from the trees. Papers are well set out; it is generally clear who is the author, what is the purpose of the paper, what the recommendations are and what risks are being addressed. Some concern has been expressed to us that papers come to Council without options other than a recommended course of action. On the other hand, it is pointed out that option appraisals have often been considered by committees and are placed before Council in relation to major projects, so it is therefore reasonable for a preferred option to be put to Council. We would encourage authors of papers to Council put themselves in the position of Council members and we offer a

checklist for authors to use in the preparation of papers – Table 8 below.

Table 8: A checklist of the preparation of Council papers

- Only including enough information at the right level for Council members to be able to engage;
- Avoiding acronyms and unnecessary detail;
- Providing an account of options considered prior to recommending a preferred option;
- Link proposals explicitly to the risk register;
- Make clear recommendations;
- Identify the particular areas where Council guidance, steering and discussion is requested;
- Providing executive summaries for longer papers.

106. Council’s agenda comprises three parts, Part 1 for discussion and decision, Part II for items to be confirmed, rejected or referred back without debate following a process set out on the agendum paper, and Part III for noting only. This seems to be a reasonable way to prioritise papers and issues for members. Papers are issued in hard copy as well as being made available electronically.

107. Because of a wide range of legal and regulatory requirements of governing bodies, it is inevitable that compliance issues occupy much of Council’s time and paperwork. We **recommend** that, when compiling the Council agenda, the Secretariat places one or two strategic issues



We would encourage the governing bodies of all universities in this challenging environment to make “blue skies” thinking part of their routine practice, as many already do. The aim should be for governing bodies to make their own weather rather than wait to be buffeted.



of interest and importance to Council near the top of the Part I agenda. We note that the Vice-Chancellor and other officers often brief Council on important issues e.g. the implications of the creation of the OfS without the pressure of decision-making and **commend** this “first bite of the cherry” principle as good practice. We would encourage the governing bodies of all universities in this challenging environment to make “blue skies” thinking part of their routine practice, as many already do. The aim should be for governing bodies to make their own weather rather than wait to be buffeted.

108. Part III papers mostly comprise the Council sub-committee (unconfirmed) minutes. There is a potential risk that members do not read these documents. It would be helpful if there was a paper in Part I which highlighted any key issues or information from these sometimes voluminous papers which might help members. We **recommend** that the Chair of a Committee presents a progress report on the work of the Committee at each Council meeting.

109. Urgent Business approved outside the meeting should be covered in Part I or II of the Agenda rather than being incorporated in the digital section in Part III where it can be easily overlooked.

Note: *The Chair of Council, Treasurer and Vice-Chancellor are jointly authorised to act on behalf of Council during the vacation and at other times to deal with urgent business, which requires a formal decision before the next available meeting of the Council, subject to report of any action*

taken to the next meeting of the Council...This is on the basis that, if any such matter is expected to be of significant interest or the subject of significant debate, members of Council will be consulted by correspondence before any decision is taken or a special meeting of Council will be scheduled (Council Standing Order 7(viii)).

110. Council’s minutes are well written and accurate, but tend towards recording less rather than more information and therefore do not evidence challenge. This is always a fine balance since minutes should not be a transcript, but it should be noted that Council minutes are an important historical record. We therefore **recommend** that, while avoiding excessive length, Council minutes should record more of the flavour and nuance of debate partly for transparency and partly as a matter of record. The minutes are in three sections: for publication, restricted and not for publication or disclosure under the Freedom of Information Act and reserved business (the latter of which will disappear if our earlier recommendation is accepted). It is typical for universities to withhold or redact minutes dealing, for example, with commercially sensitive matters or personal information but care should be taken to be as open and transparent as possible, consistent with protecting commercial interests and data protection. We have reviewed recent minutes and cannot see any reason why a number of minutes relating, for example, to financial statements and audit committee reports need to be withheld from publication. We **recommend** that Council formally adopts a policy that all of its confirmed minutes be placed on the University’s website unless there is a compelling reason



We would encourage the governing bodies of all universities in this challenging environment to make ‘blue skies’ thinking part of their routine practice.



for redacting or withholding information from publication i.e. the presumption should always be in favour of publication rather than secrecy. The withheld information should be kept to a minimum e.g. a few words, a sentence or a paragraph may be withheld but normally not the whole item.

Induction, development, mentoring and appraisal of members

111. We deal with the recruitment of appointed Council members below. This section looks at, once they have been recruited or appointed *ex officio*, how they are inducted into Council's work, developed over time, mentored and appraised.
112. Whilst the survey indicates that some 75% of Council members are very satisfied or satisfied with their induction, some members shared critical views of their induction in interviews with us. Each year, the Secretariat organises an induction day attended by the Chair of Council and addressed by the President and Vice-Chancellor. We have not observed an induction day because of the timing of this review but have discussed its format and agenda with the University Secretary and recently appointed Council members. It covers the ground we would expect in terms of the duties and responsibilities of Council members, information about the University and how it works, principles of good governance and public life, expectations of Council members and support available for them. The Vice-Chancellor talks about the strategic direction of the University and new members learn about its organisation and plans

in the context of regional, national and international activity. Legal and regulatory requirements and the work of committees are also covered. The survey confirms that Council members understand their duties and responsibilities, so the objectives and outputs of the induction appear to be largely met. We **conclude** that from what we have seen the induction of Council members is appropriate however we **recommend** that a review of induction is undertaken after the next induction day.

113. There is no formal mentoring arrangement following initial induction. We **recommend** that each new member of Council be assigned a more experienced member as a mentor. This need not be onerous for either party, but the mentor would be expected to ensure that new members are drawn into conversations during breaks, should sit next to their mentee to ensure discreetly that they can follow the papers and respond to any queries. The mentor should be available as an informal source of advice and guidance between Council meetings.
114. The open access Council section of the University's website is clear, up to date and easily navigable although some documents such as the scheme of delegation (which we have reviewed) and Council minutes might be made more visible. Members have access to a password-protected area, in line with usual practice, for confidential information and to access Part III papers. However, the review survey¹⁸ showed that 65% of respondents do not understand the different roles of Council, Senate, Court and the University senior management team and 46% feel that the Council's terms of

¹⁸See Annex 4

reference are not easy to access or understand. In addition, a number of interviewees requested the publication of a “How the University works” document. We therefore **recommend** that the University should produce an accessible “How the University works” document which can form part of staff inductions and be placed on the website.

115. Council members have no complaints about being denied development opportunities but some feel the service can be reactive. They would like to see more regular bulletins between Council meetings, including information, links and prompts to WonkHE, Higher Education Policy Institute (HEPI), Advance HE and other sources of discussion about higher education issues. Council as a body, in common with much of the sector, does not have a high social media profile and that may well be appropriate. There are opportunities which might be pursued (as a suggestion rather than a recommendation) to create WhatsApp/Facebook/Twitter groups of members, subject to any data or security concerns. Council members are aware of opportunities and resources provided by the [Leadership Foundation](#) (now part of Advance HE) for governors and a number have availed themselves of these opportunities resourced where applicable by the University.
116. There is a formal system of the Chair meeting with each new Council member after approximately their first 6 months and of the Chair meeting with all members every three years. We believe that every Council member should be entitled to an annual appraisal discussion. This provides an opportunity, in an informal setting befitting pro bono

activity, for the Chair and the member to discuss performance, raise issues with each other and set objectives for the coming year. We recognise that this is a lot to ask of the Chair, particularly in a Council of Bath’s current size, but the meetings should not take more than an hour and will often be much shorter. If the parties agree, a member of the Secretariat could be present to take notes and follow up. Meetings could be arranged when Council members are in the University anyway or could be conducted if necessary by telephone or videoconference. We **recommend** that an annual appraisal scheme be put in place for all Council members.

Ergonomics of Council meetings

117. The Council Chamber is well appointed with good audio-visual facilities for presentations. The Chair has a good field of vision to identify members wishing to speak. Name cards are provided for members but, rightly in our view, seats are not allocated. In practice members tend to sit in the same place from our observation. If our proposal for mentoring is taken up, mentors **should** sit alongside mentees.
118. The Council table is not big enough to accommodate members and the 15 or so in attendance (to do so would require a table sitting some 40 people or a theatre-style arrangement). Other than the Director of Finance and University Secretary, those in attendance sit behind the main table in alcoves around the room. While it is beneficial for senior academics and officers to observe Council meetings and respond to questions from

members, we **suggest** that only those who need to attend the whole meeting for compelling reasons should be in attendance, with others attending part of the meeting if necessary for particular items. The Secretariat should review attendance, other than members, in consultation with the Chair and non-member attendees, with a view to reducing automatic attendance, other than the Secretariat and Director of Finance.

119. We **note** that, unusually, the Secretary sits next to the President and Vice-Chancellor rather than the Chair at Council meetings. We **recommend** that the Secretary sits next to the Chair to signal the accountability of the role to Council, to be readily available to provide advice to the Chair and indicate to the Chair members wishing to speak if necessary.

Observation of Council Meetings

120. We observed two meetings of Council, on 16 January 2018 and 22 February 2018. We were provided with all papers and named seats were provided for us. We were offered the opportunity to take tea and lunch with Council but declined to underline our independence. A number of Council members courteously made a point of introducing themselves to us and we were introduced by the Chair at the start of the meetings. Our formal link to the University, the non-executive Chair of the Audit Committee, reported on our process in writing to each meeting following input from us. At the February meeting the lead consultant was invited to report on progress and responded to queries on

our process. There was no discussion on the substance of our report or any attempt to influence us other than some questioning of our survey methodology¹⁹ by two Council members and a request from one member for us to produce a template for our report. This was not a requirement of our remit and we took the view that we had to be the owners of our process in order to demonstrate independence. We were, however, happy to provide (subject to change in light of emerging themes) an outline of the broad headings of our report.

121. The Council meetings were well-paced with light-touch and inclusive chairing, while moving the agenda along smoothly. Members spoke up throughout the meeting and, while some were inevitably more voluble than others, everyone was able to catch the Chair's eye and have their say. Officers introduced papers crisply and answered questions. In the meetings, we observed there was little challenge of the Executive, although questions confirmed that members had read the papers and thought about the issues. We saw no evidence of cliques of Council members. We note that, when a member proposed a motion and was seconded at the February meeting to accept rather than note a series of resolutions from Court at its January 2018 meeting (see below), the Chair used powers under Standing Orders to ask Council to await our consideration of the issues, (we deal with them later in the report) rather than allow discussion of the motion and put it to the vote.



The Council meetings were well-paced with light-touch and inclusive chairing, while moving the agenda along smoothly



¹⁹Annex 2

122. Council made major decisions on capital investment at the November meeting and we would have expected those to be recorded by a series of detailed resolutions in the minutes relating e.g. to expenditure limits, construction programmes, dealing with variances in the project management triangle of time, money and quality and Council oversight of major expenditure, rather than a brief resolution indicating consent to proceed and the expected cost. It would not be appropriate to go into detail in commercially sensitive areas and we have been assured that detailed investment appraisal and project management arrangements are in place and reviewed at committee level. But we **recommend** that where Council is approving major items of expenditure, detailed resolutions are approved and recorded setting out exactly Council's expectation of those delivering the projects, including their monitoring, the process for dealing with material variations and the high level contractual arrangements.

123. We were impressed by the careful attention Council gave to legislative and regulatory requirements e.g. modern slavery, fire protection and environmental audit, where there was a clear intent to go beyond the minimum requirements. Reports on staffing and student issues were professional, clear and comprehensive.

124. As is often the case in large meetings, contributions from members tended to be in the form of questions and statements rather than debate and discussion. Nevertheless, participation was universal

and well-informed, although occasionally parochial and detailed rather than strategic.

Appointment of new Vice-Chancellor

125. At the January meeting, issues relating to the appointment of a new Vice-Chancellor were raised orally, but at the February meeting a paper was presented and discussed in line with CUC guidance on Vice-Chancellor appointments. In our experience, the University is unusual in keeping the Joint Selection Committee (known as CoVC) populated between Vice-Chancellor appointments. Normally such committees are stood down after an appointment and reconstituted as required. Bath's practice has led to an all-male voting membership with female members co-opted and a composition of the Committee which is not optimised for the future, since a number of members have been on Council a long time, and we understand one participated in the appointment of the current Vice-Chancellor in 2001. After the January Council meeting we suggested that it might be advisable to pause the process, await our report and repopulate the Committee taking account of gender balance and other factors. Our suggestion was not taken up and it would do more harm than good to pause the process now, but we do **recommend** that the Joint Selection Committee is disbanded when the new Vice-Chancellor is appointed and only reconvened as required. The process for elected members should recognise that it is simply unacceptable in the 21st Century for selection committees

to comprise all-male voting members.

126. The University has consulted with staff, students and alumni in the process of appointing a new Vice-Chancellor. This engagement was mentioned very positively by review participants. We commend the approach that has been taken and offer it as an example of good practice in stakeholder consultation.

Chair of Council

127. A significant number of those interviewed expressed the view that the current Chair of Council should have resigned at the same time as the Vice-Chancellor. Others take the view that for both to announce their departures at the same time would not be good governance practice. Some still feel that the Chair should resign and there are continuing calls for him to do so. In particular, across the spectrum of Council and senior management as well as staff and students, many feel that a new Chair rather than the current one should sit on the CoVC. The current Chair feels a strong sense of duty to support the Chancellor as Chair of CoVC and in any case the process is now too far advanced to make the change. The majority of Council members who discussed the issue with us feel that the resignation of the Chair now would simply exacerbate the perturbation recent events have caused, but that the Chair should announce a date of departure as soon as possible. We understand that the Vice-Chair will shortly commence the process for identifying a new Chair, utilising recruitment consultants and open advertisement, with a view to a new Chair having been identified to take office during the early

months of the new academic year following the expected completion of the process of appointing a new Vice-Chancellor the next academic year. We believe that a new Vice-Chancellor and Chair of Council will provide the right environment for the University to move forward and we recommend that the Vice-Chair and the Nominations Committee (augmented by a student member) adopt as open and transparent process as possible in the time available to determine the person specification and role description for the next Chair, in consultation with the University community and other key stakeholders. It is a matter for the University of course but our view is that an external Chair with no previous involvement in Council is more likely to carry authority and be unencumbered in current circumstances.

Secretariat and “Senior Independent Director”

128. Council members who expressed a view in interviews were appreciative of the support they receive but had concerns, echoed in wider consultation, about the quality of advice provided on constitutional issues. There was a lack of clarity (or certainly a perceived lack of clarity) in relation to whom is responsible and accountable for advising Court on constitutional and procedural matters. As noted above, in most Statutes this is explicitly the responsibility of the Registrar/Secretary as named Secretary to Court, Council and Senate but Bath’s Statutes refer only to Council. This matter came to a head following the February 2017 Court meeting (see section on Court below) where advice was not given on declarations of



The University has consulted staff, students and alumni in the process of appointing a new Vice-Chancellor.



interest. The University Secretary apologised to the January 2018 Court meeting for this and expressed deep regret at that meeting. This matter has now been addressed, Court Standing Order 5 states, 'The University Secretary shall provide advice as required at a meeting' and this was in operation throughout the January meeting.

129. We also point out that the Council will be embarking on a huge body of work which will require support. In addition to the implementation of this report (if approved), Council has to deal, in addition to its normal business, with the appointment of a new Vice-Chancellor and many other pressing matters.

130. Normally, the University Secretary would act as Secretary to the Joint Selection Committee of Senate and Council to advise on the appointment of the new Vice-Chancellor, but the University Secretary and Chair of Council agreed to appoint an external Secretary to the Committee. Nevertheless, the University Secretary has a significant management workload including responsibility for the Legal Office, visa requirements, Freedom of Information requests and equality and diversity. He estimates that non-governance aspects of his role account for more than 80% of his time.

131. In other sectors e.g. health, further education, schools, a designated clerk or secretary to the board tends to be appointed charged with only governance responsibilities and with a clear line of accountability to the board through the chair. In the corporate sector, a company secretary fulfils this role. In higher education, the

position is more varied. Some universities have a secretary to the governing body, some a University Secretary with wider management responsibilities and some retain the Registrar and Secretary model which combines the roles of head of operations with Secretary to Court (where applicable), Council and Senate. CUC recognises the value of the secretary to the governing body also providing a link to the senior management team, as long as accountability for governance to the chair is clear and unimpeded.

132. It is a matter for universities as autonomous bodies which model they follow and we do not advocate any particular one. In the particular circumstances of Bath, however, we **recommend** that the University creates a new post of Head of Governance to act as Secretary to Council as defined in the Statutes and also formally to Court and Senate (although the actual servicing may be delegated). The post should be advertised with suitably qualified and experienced internal and external applicants eligible to apply. Other than for the Secretariat staff involved with supporting committees, the post-holder should not have management responsibilities and should be contractually accountable to the Council through the Chair. Given that the Chair is non-executive the Head of Governance may need a "dotted line" to a named executive (but not the Vice-Chancellor) for "pay and rations". The Head of Governance should be regarded as a senior officer with access as necessary to the Vice-Chancellor and the senior team, but would not be a member of the Vice-Chancellor's Group or equivalent nor attend it routinely. However, there will be matters that will come to Council



The HoG would be expected to go beyond compliance and work to ensure that Bath demonstrates good or best practice in University governance.



where the advice of the Head of Governance will be very useful to the team. We do recognise the importance of liaison with the senior team and we suggest that one of its number be the designated link person with the Head of Governance. It would make sense for the link executive also to provide the “pay and rations” support to the Head of Governance. The advantages of this arrangement in our view are outlined in Table 9 below.

Table 9: Key Aims for Head of Governance

- The Head of Governance would be, and be seen to be, independent of management;
- The Head of Governance would be able to focus exclusively on governance matters including the implementation of our report;
- Responsibility for providing constitutional advice to Court, Council and Senate;
- As the President and Vice-Chancellor has indicated to Council, future regulatory requirements from the OfS might become onerous (although in fairness the OfS is signalling light touch, at least for low-risk institutions). The Head of Governance would be well placed to have oversight of (but not responsibility for) compliance issues in order to provide assurance to Council.

133. The Head of Governance would be expected to go beyond compliance and work to ensure that Bath demonstrates good or best practice in University governance. This would include promoting a culture with a presumption in favour of disclosure,

openness, transparency, consultation, communication (with transmitters and receivers tuned to the same frequency), delegation, scrutiny and accountability. This approach would be entirely compatible with the Nolan Principles of Public Life, namely selflessness, integrity, objectivity, accountability, openness, honesty and leadership. All members of Council would continue to advance and champion these values and provide a safety net for Council members who felt that their concerns were not being met without good reason. We **recommend** that Council identifies a senior and respected designated lay member to act, in effect, as the Senior Independent Director (SID). The SID will need a clear role description. Such an appointment is commonplace in the private sector and NHS (and occasionally known as the Chancellor’s Assessor elsewhere in higher education). Council should collectively decide on the identification of the designated lay member. The University will want to consider how this role relates to the Deputy Chair role and indeed whether a deputy is still required. We also **recommend** that the designated lay member should convene a steering group supported by the Head of Governance or other appropriate officer pending the Head of Governance appointment, to oversee the implementation of this report, if approved. We further **recommend** that the designated lay member should annually appraise the Chair following consultation with Council members.

Committees of Council

Remuneration

134. Our remit requires us “to review in particular the membership and operation of the Remuneration Committee”. The remit is outlined in Table 10.

Table 10: Halpin Review Terms of Reference relating to the Remuneration Committee

“In relation to the Remuneration Committee, the review shall consider the membership and workings of the Remuneration Committee of Council including its accountability and transparency and training/support for its members. It will take appropriate account of:

- guidance provided by the Higher Education Funding Council for England;
- best practice in the HE sector, including guidance from the Committee of University Chairs (Practice Note 1);
- further CUC guidance: A Fair Pay Code is expected to be produced in draft by December 2017 and be finalised by 31 March 2018;
- the governing body responsibilities outlined in the recent documents published by OfS;
- input from stakeholders in the various processes, including staff and student representatives;
- current and emerging best practice and legislation concerning remuneration in the private sector wherever relevant to the HE context.”

135. The terms of reference (Table 10) provided us with a comprehensive remit to consider remuneration matters. We also had the benefit of:

- Interviews with present and former Remuneration Committee members, as well as members of Council;
- Our own experience of remuneration committees in the private sector and universities, health and further education, including specialist remuneration advice from Peter Smith of Korn Ferry;
- The deliberations of Court and Council;
- Observation of two Remuneration Committee meetings, one special one to consider and advise on the remuneration parameters for the new Vice-Chancellor and a specially convened meeting to consider policy and procedural issues;
- A range of guidance including current and proposed future CUC advice, the former HEFCE’s guidance on senior staff remuneration, Scottish guidance, emerging guidance from the OfS, charity law, guidance from Ministers, practice in other sectors and LFHE good practice advice;
- HEFCE’s report referred to above which specifically requests us to examine certain matters;
- Views of staff and students as expressed in our survey, interviews and group discussions.

Recent Events

136. We have the benefit of hindsight, so we do wish to record that Bath’s remuneration processes would not be unfamiliar to the higher education sector, that at the time decisions were made the composition of the

Remuneration Committee (RemCo) was compliant with the CUC Code, and that the Committee was grappling with contractual entitlements which sometimes dated back to 2001, when the current President and Vice-Chancellor was appointed and the world was a very different place. We should record a belief conveyed to us by some stakeholders that the issue is “gendered” and that a male Vice-Chancellor would not have faced the same level of criticism. The President and Vice-Chancellor has voluntarily stepped down from RemCo and the Chair of Council, while continuing as a member (as recommended by CUC), and no longer chairs the Committee. A new Chair of Council has been elected by Council. For the record, we also confirm that the President and Vice-Chancellor has had no involvement in the determination of her own remuneration. When she was (in common with nearly all other Vice-Chancellors) a member of the Committee she always left the room when her own remuneration was discussed.

137. At the January 2018 meeting of Court the Chair of Council, as part of a response to the HEFCE report, stated:

“To be quite clear in 2015, the Remuneration Committee took the decision with proper advice and in what it considered were the best interests of the University, with an emerging new strategy and with several other changes occurring in the senior management team, to retain the Vice-Chancellor’s services for a further period, and the Vice-Chancellor agreed to remain on that basis. We had absolutely no expectation that would make her the highest paid Vice-Chancellor.”

By the Chair’s own admission therefore, it is an unintended consequence that it has been widely reported that Bath has recently had the highest paid Vice-Chancellor. More worryingly, our interviews revealed a lack of awareness by Council members generally of the remuneration issues and a lack of transparency in the details that Council received of the Remuneration Committee’s decisions. It follows that checks and balances need to be put in place to ensure a more robust process. The set of proposals in this section, combined with action already taken by the University are designed to have that effect.

138. The President and Vice-Chancellor was appointed in 2001 and demits office on 31 August 2018. She came from a senior position in another university. Under her leadership the University has enjoyed considerable success, which is also of course to the credit of the staff, but also other stakeholders and supporters, not least students. It is highly likely that a long serving Vice-Chancellor in a successful university will be towards the top of the distribution in terms of remuneration, since the average tenure of Vice-Chancellors is thought to be in the region of 5-7 years. In July 2015 RemCo took the decision that the Vice-Chancellor’s base salary be increased by 10% in that year. This was communicated to Council in October 2015 via a letter to Council from the Chair of Council which indicated that, in order to retain the services of the Vice-Chancellor, the Remuneration Committee had agreed to a 10% increase in order to place the VC “on a par with the leaders of the top universities in the UK”.



Our interviews revealed a lack of awareness by Council members generally of the remuneration issues and a lack of transparency in the details that Council received of the Remuneration Committee’s decisions.



139. The HEFCE report referred to “damage to the reputation of the University” in relation to the University’s handling of a motion at Court in February 2017 relating to the conduct of the Remuneration Committee. This view is almost universally shared in interviews and group discussions. Our survey results clearly outline the need for change – see Table 11 below.

Table 11: Survey Responses relating to Remuneration

- 72% of respondents either disagree or strongly disagree with the statement that “the Remuneration Committee is clear in communicating its decisions”;
- 78% of respondents either disagree or strongly disagree with the statement that “the process for setting remuneration at the University is transparent”;
- 84% of respondents agree or strongly agree with the statement that “universities should make a full public disclosure on remuneration including all benefits and income received by the Vice-Chancellor from all sources”
- 82% of respondents agree or strongly agree with the statement that “universities should produce a ‘pay ratio’ showing the ratio of the head of institution’s pay to the median level of salary at the institution”;
- 54% of respondents agree or strongly agree with the statement that “transparency about remuneration needs to be balanced with the individual right to privacy”.

The narrative comments provided via the survey are also critical and refer to:

- A lack of transparency as to how decisions are made.
- Poor reporting by the RemCo to Council.
- No staff or student representation.
- No justification for high salary increases.

These sentiments are common throughout the review consultation process, particularly a sense of unfairness and lack of transparency. Many people told us they had been raising these issues for years but that the Council had not paid attention to their concerns. HEFCE in its report (Paragraph 12) expresses disappointment that the University did not respond more proactively to these concerns and concludes: *“The Remuneration Committee and Council could have considered these representations as a valuable stakeholder challenge and responded with greater attention to the underlying issues being raised.”*

This certainly coincides with our evidence base and we suggest that Council should view the criticisms as an important opportunity to learn and change. Following on from the Chair’s statement to Council, and our observations of the most recent RemCo meeting, there are indications that this is the case.

Current CUC Guidance

140. Current CUC guidance is captured in the Code and in Illustrative Practice Note 1: Remuneration Committees dated March 2015 i.e. before the Remuneration Committee



The Remuneration Committee and Council could have considered these representations as a valuable stakeholder challenge and responded with greater attention to the underlying issues being raised.



meeting in the autumn of 2015 which awarded the President and Vice-Chancellor a 10% increase in salary. The documents are available on the CUC website. Element 3.13 of the Code states that “governing bodies must establish a Remuneration Committee to consider and determine, as a minimum, the emoluments of the Vice-Chancellor and other staff as prescribed by the governing body”. Element 3.14 sets out issues relating to membership with which the University complies. Emerging guidance is likely to require that the Chair of Council remains a member but does not Chair RemCo and that the Vice-Chancellor should not be a member. Bath has already taken action on these points. Element 3.15 requires RemCo to consider comparative information and to record all arrangements unambiguously and diligently. It must report on its decisions and operation at least annually to the Council with such reports not being withheld from any members. Notwithstanding reserved business, all members do receive the report. Finally, Element 3.16 requires RemCo members “to consider the public interest and the safeguarding of public funds alongside the interests of the institution when considering all forms of payment, reward and severance to the staff within its remit”.

141. In its annual self-assessment of compliance with the Code the report from the University Secretary to Council states that the University meets these requirements. He also points out in relation to 3.15 and 3.16 that the functioning of RemCo will form a key part of our review. We agree with his assessment in relation to Elements 3.13 and

3.14. In relation to 3.15 and 3.16 we note that reports to Council seem to comprise each year’s minutes presented as an edited version of the previous ones. **We also note HEFCE’s recommendation 6:** “The University should become much more transparent, with significantly greater explanation of its processes and decisions, both to Council and more widely. This greater transparency should be reflected in the minutes and in the annual accounts.” We have seen evidence in relation to the Vice-Chancellor’s settlement that the public interest and the safeguarding of public funds was taken into account, given the legal constraints, but such considerations are not well-evidenced in the Committee’s reports and minutes. That is not to say that they do not take place, but more transparent and detailed reporting would provide assurance to Council and stakeholders that this is the case. There is evidence that comparative data is utilised, but in our view, some of the comparators used may not be appropriate for Bath since they are larger, more complex institutions with medical schools. In any case, practice is moving on and the Council is now committed to moving with it. It is arguable as to whether the University has been fully compliant with Elements 3.15 and 3.16, or at least able fully to evidence compliance, but it is important now to look to the future and to work towards clearly exhibiting good practice.

142. To this end, the University has demonstrated a commitment to improving its remuneration practice and has swiftly put in place several improvement actions – see Table 12 below.

Table 12: Improvements to Remuneration Practice already undertaken by the University:

- The Committee has a new Chair
- The Chair of Council is a member but no longer chairs RemCo
- The Vice-Chancellor is no longer a member or in attendance at RemCo meetings
- The membership of the Committee has changed
- The Committee has altered its approach to benchmarking data
- The Committee is meeting more frequently
- The Committee has commenced the process of reviewing policies and practices

143. A full test of the response to HEFCE recommendation 6 and related parts of the CUC’s new remuneration code should be made by assessing the quality of the Committee’s reporting to Council later this year and the publication of the financial statements for 2017/18. We **recommend** that this assessment is made by an independent reviewer in January 2019.

144. The Illustrative Practice Note points out that: “It is probably fair to say that in the eyes of wider society the reputation of Higher Education (HE) can be significantly damaged by pay packages for senior staff that are perceived as out of kilter with pay and conditions elsewhere.” The note goes on to say that Remuneration Committees face a difficult challenge in responding to the global market for talent, linking pay to performance and awarding sustainable increases. Reference is made to secrecy surrounding pay decisions and the increasing

trend to see pay as a reputational governance issue requiring more transparency of principles and guidelines. The Note provides case studies and examples of good practice, a series of frequently answered questions and a checklist of questions raising pertinent points for governors – see Table 13 below for examples from the checklist.

Table 13: Governors’ Checklist of Questions Regarding Remuneration

1. Am I confident that I could explain and justify my institution’s approach to senior staff remuneration?
2. Is the report which my Remuneration Committee makes to the governing body sufficient to assure me of the robustness of the process?
3. Am I satisfied that the criteria for salary increases are clear and are based on proven individual performance, clearly demonstrable market factors and reliable benchmarks?

145. The Note is an illustration of what CUC regards as examples of good practice; it is not mandatory and is advisory. The current remuneration “Element” of the Code and the Note itself have been overtaken by events in that CUC has recently finished consulting on new Remuneration Guidance (also available on its website). We understand that the results of the consultation are supportive, and that the guidance will soon be introduced on a “comply or explain” basis, amended as necessary in the light of the consultation. Bath’s Council approved the following response from the University pending our report:

“The University of Bath Council welcomes the proposed introduction of a remuneration code for higher education. Its development in consultation with HEIs [i.e. higher education institutions] and our key stakeholders sets the right tone for governance in a sector which relies on a significant degree of investment and support from Government, taxpayers and other sponsors. Consistent and clear standards across the sector will provide a sound basis for good governance and we are committed to complying fully with the finalised code.”

146. The draft HE Remuneration Code (HERC) comprises the elements of fair and appropriate remuneration, each accompanied by a number of supporting principles. The three elements are:
1. A fair, appropriate and justifiable level of remuneration;
 2. Procedural fairness and;
 3. Transparency and accountability.

Given that the Council has already committed to complying fully with the finalised HERC its implementation now becomes an audit issue i.e. how does Council assure itself and stakeholders that the Code has been fully implemented? The draft Code has already been presented to RemCo at its special meeting on 14 March (which we observed - see below) as part of a package of information to enable RemCo to advise the CoVC. A further meeting of RemCo was held on 16 April (which we also observed), to consider policies and procedures. At that meeting the Committee utilised an audit checklist of good practice provided by our observer.²⁰

We **recommend** that RemCo works systematically through the HERC once finalised, so that an implementation plan can be submitted to Council for approval.

147. This should provide substantial assurance that the University will meet the minimum requirement i.e. that of the HERC. The provisions of Section D of the Corporate should be considered by Remco (including, for example i) where a company releases an executive director to serve as a non-executive director elsewhere, the remuneration report should include a statement as to whether or not the director will retain such earnings and, if so, what the remuneration is, and ii) the remuneration committee should carefully consider what compensation commitments (including pension contributions and all other elements) their directors’ terms of appointment would entail in the event of early termination to avoid rewarding poor performance.) In addition, the OfS intends to issue an Accounts Direction (i.e. information required to be audited and published in an institution’s annual report and financial statements) as follows:
- ‘Accounts direction’ means the document that the OfS publishes from time to time to set out its requirement for the content and publication of a provider’s audited financial statements. The direction will include, but not be limited to, the disclosures that the OfS requires in relation to.
- a. Senior staff pay in all registered providers;
 - b. Those providers that are exempt charities.

²⁰ Annex 8

The OfS's first Accounts Direction may require disclosures that are expected to include, but are not limited to:

- a. The number of staff with a basic salary of over £100,000 per annum broken down into bands of £5,000;
- b. Full details of the total remuneration package and job title for each member of staff with a basic salary of over £150,000 per annum, including bonuses, pension contributions and other taxable benefits;
- c. A justification for the total remuneration package for the head of the provider and the provider's most senior staff;
- d. The relationship between the head of the provider's remuneration and that of all other employees, expressed as a pay multiple.

148. We **recommend** that, as and when the OfS requirements are formally specified, RemCo receives data on the remuneration of those staff subject to the Accounts Direction, so that it has an overview of all senior staff remuneration, not just that of the very senior staff whose remuneration it determines. To be clear, RemCo's remit in terms of setting or recommending remuneration would continue to be confined to the Vice-Chancellor and a small number of second tier posts, but the Committee would receive reports of all remuneration required to be disclosed in the Accounts Direction. In relation to (d), CUC has reported that over 80% of institutions currently sit within the range 4.5 to 8.5 in terms of the multiplier of Vice-Chancellor pay (Bath is 11.03). Institutions wishing to position themselves outside this range will need to justify why this is

desirable, on the basis that the higher the remuneration the greater justification required. CUC envisages the mid-range of 6.4:1 becoming an aiming point over time for universities. The OfS guidance will apply to all registered institutions, including alternative (mainly private for-profit) providers. It should be noted that some of our consultees believe that Vice-Chancellor pay should be set at a multiple of a maximum 10:1 in relation to that of the lowest full-time equivalent employee. In Bath that would be approximately £166k.

We **conclude** that such a policy would be unrealistic, even though some will no doubt argue that it approximates to the pay of the Prime Minister. It would have the effect of decimating the potential field of candidates since many of them will already be remunerated to at least that level. We also note that the Hutton Review of Fair Pay in 2011 recommended using the median as a multiplier, partly because a top to bottom ratio only compares two people within an organisation, creates perverse incentives for outsourcing, is inflexible, inhibits autonomy and impacts on recruitment and retention.

We therefore **recommend** that the University follows emerging CUC advice (and the possible OfS requirement) and publishes the remuneration of the Vice-Chancellor each year as a multiple of the total median remuneration of all employees, however eventually defined by external bodies.

149. We **note** concern expressed to us that the process for setting professorial-level pay is not transparent. This is a

management process but has a governance dimension in relation to Council's overall responsibility for its staff. We note that there is little evidence of transparency in the process since detailed records are not kept. We feel sure that the incoming Vice-Chancellor will wish to take a close interest in professorial pay and therefore **recommend** that the current procedures be reviewed once the new Vice-Chancellor is in post. As a minimum, we believe the review should result in greater clarity for professors as to the criteria applied to determine their remuneration, the comparative data that is used, and assurance that the outcomes have been tested for fairness and equality issues e.g. in relation to gender and ethnicity. Professors applying for increases should receive helpful feedback through their head of department or dean on their applications.

We **suggest** that data is analysed relating both to successful and unsuccessful applications for awards in order to identify any equity trends or unintentional biases. We are aware of some universities that have a senior academic not currently involved in senior management who observes as an assessor to ensure fair play and avoidance of patronage or the impression of patronage. We **commend** this as a possibility given the need to re-establish trust and confidence in remuneration processes. We **recommend** that the Remuneration Committee receives information that enables it to maintain an overview of the process for the remuneration of professors. This should also be helpful in establishing a context for the Committee in considering very senior pay.

150. We also **note** that the Human Resources Department has little resource devoted to reward mechanisms and that currently there are no specialist HR professionals sitting on RemCo. We therefore conclude that it may be necessary for RemCo to commission specialist external advice, at least during the implementation period. That **should** of course be subject to a formal competitive procurement process.

151. Overall therefore we **conclude** that the University is, or intends to be, compliant with basic and emerging requirements, but would exhibit much better practice by embracing the new HERC and our proposals in this section.

The Current Remuneration Committee

152. The newly constituted Committee is composed of four lay members (three male, one female) including the Chair of Council and the Treasurer ex officio. A new Chair of the Committee, appointed by Council on the recommendation of the Nominations Committee, has taken office. The Committee's remit, revised at the end of November last year, is outlined in Table 14 below.

Table 14: Revised Remit of the Remuneration Committee

- Under delegated authority from Council, to determine the remuneration of the Vice-Chancellor, the Deputy Vice-Chancellor, the Pro-Vice-Chancellors, the Deans, the University Secretary, the Director of Finance and the Director of Estates. The Committee will ensure that the performance of the named officers is assessed. [NB: if our proposal relating to the Head of Governance is approved that post should also be included].
- To approve objectives for the Vice-Chancellor which will be shared with Council.
- To make recommendations to Council on any severance arrangements for staff earning over £100k a year, in accordance with HEFCE guidance.
- To make an annual report to Council.

Procedural rules include the power to co-opt, a quorum of three members and a requirement to meet at least twice a year. The Committee is supported and advised by the Director of Human Resources. The remit will clearly need to be reviewed in the light of the HERC, the advent of OfS and our earlier advice in relation to overview of senior remuneration. We **recommend** that Council reviews the membership and remit of the Remuneration Committee with reference to the checklist set out in Table 15 below.

Table 15: Checklist for the Membership and Remit of the Remuneration Committee

- The Halpin Review recommendations including staff and student membership;
- The HERC once published;
- OfS guidance once finalised;
- Other good practice such as the Corporate Code, Scottish Code, Leadership Foundation and voluntary sector guidance on Remuneration Committees;
- The need for the Committee to operate within the remuneration policy and parameters set out by Council and to revert to Council prior to any proposal to breach the parameters;
- The review of objectives and performance of the senior team
- The need for more transparent and comprehensive reporting of process and outcomes;
- The need for RemCo decisions to “feel fair” across the University community;
- The desirability of contractual arrangements for staff covered by RemCo to mirror as far as reasonably practicable those for relevant comparators e.g. academic and senior professional staff.

Equality and Diversity

153. The members are experienced with business and professional services backgrounds but are not HR professionals. We therefore **recommend** that the Committee has a co-opted member with suitable experience who need not be a member of Council. We also **recommend** that a member of the Audit Committee is invited to observe meetings of RemCo

while our recommendations are, if approved, being implemented, to provide further assurance to Council. We further **recommend** that the Head of Governance acts as Secretary to the Committee to provide governance advice and to free the HR Director to provide professional advice. As noted above the Committee may wish on occasion to procure competitively resourced independent professional advice.

154. During our consultations, a significant body of opinion holds that RemCo should include staff and student membership. It is argued that recent events would not have happened had students and staff exercised a restraining role. There seem to be two sets of arguments in relation to remuneration which pass each other by. There is the “business” view which emphasises reward, retention and international competitiveness and a “charity” view which emphasises public service, public sector comparators, equitable treatment for all employees and sensitivity to public policy. It is felt that the “business” view is well represented on RemCo but that staff and student representation is required for transparency and to represent the “charity” view.

155. In the UK, good corporate practice is for senior executive pay to be set by non-executives although in Germany, for example, this is not the case. The HERC will probably advise that staff and student representation is not necessary, but the Scottish Code sees this as one possible way of meeting the “clear requirement” to engage with staff and students about remuneration. We are aware of

at least two universities which have a student representative on their RemCos and one which has an independent Assessor. We are in no doubt that staff and/or student representation would be welcomed across the University and, while it would not satisfy some, would go a long way towards restoring the legitimacy of the process.

156. We have considered this matter carefully. While staff and/or student representation would help to assure the community that RemCo was more balanced, we are also mindful that if, for any reason, the arrangement proved problematic, it would be difficult to reverse. For example, staff and students may find themselves conflicted between constituencies which want executive pay held down and objective evidence which shows a need to reward exceptional performance or pay competitive rates. They may be placed in a difficult position simply by not being independent and external. It will be important that all members of RemCo receive appropriate training and support. Some argue that a student representative is inappropriate because students are transitory; others that employees should not sit on the Committee in any capacity in order to ensure independence. Another proposal is that staff and student members be elected from across the community.

157. In coming to a view on this matter we have been influenced by the particular circumstances of Bath where trust and confidence need to be restored and by our reading of future trends in the light of the creation of the OfS. Just as in the 1960s when there was much opposition

to student membership of governing bodies, today arguments are advanced against students sitting on RemCos. But the arc of history will incline, we believe, towards more rather than less student involvement. To argue that students should not be members because they are transitory or because they are not staff begs the question as to why therefore they are so widely represented on other decision-making bodies. Students' Unions are used to providing support and continuity as student officers change. Student Presidents chair Trustee Boards, manage significant resources and employ numerous people. It could be argued that they are better equipped than many staff to sit on RemCo. We do believe, however, that RemCo should comprise mainly members of Council since it is a committee of Council. On balance, we think that it would be wrong to differentiate between staff and students. We also believe that it is right for RemCo to comply with good practice and have a lay majority. We therefore **recommend** that one elected staff member of Council and one student member, both proposed by the Nominations Committee, should join RemCo, but that the arrangement be formally reviewed after not more than three years in case unintended consequences or difficulties should arise. They would be bound by the same duty of confidentiality as other members. Under our proposals RemCo would be comprised as outlined in Table 16. We accept that this makes for a larger Committee than would ideally be the case, but we believe this to be necessary at present and have proposed a review in not more than three years.

Table 16: Recommended Membership of the Remuneration Committee

- Lay member of Council, Chair
- Three lay members of Council (including the Chair of Council ex officio)
- One elected staff member of Council
- One student member of Council
- One co-opted remuneration expert

In attendance:

- Head of Governance, Secretary
- Director of Human Resources
- Member of Audit Committee invited during implementation process
- External professional adviser as and when necessary

Observation of Meetings

158. The meeting held on 14 March was well-chaired with all members fully contributing. The meeting had the benefit of professional external advice from the Secretary to CoVC and from the HR Director. The paperwork was highly professional and included benchmarked comparative information, the HEFCE report, the draft HERC and advice on possible contractual terms for the new Vice-Chancellor. In our view, a sensible position was reached on the range for remuneration and appropriate benefits, with a preference to make the terms as similar as possible to those for the generality of academic staff. While it was accepted that there had to be room for negotiation with a preferred candidate,



The paperwork was highly professional and included benchmarked comparative information, the HEFCE report, the draft HERC and advice on possible contractual terms for the new Vice-Chancellor.



there is a determination to avoid hostages to fortune at a time when the candidate has maximum leverage.

159. The April meeting was convened to consider how the Committee might operate in future and to discuss members' views about possible changes; another meeting is scheduled in July. Although it was accepted that the Committee's remit will have to be reviewed, there was a wish to ensure it should not be extended too widely. However, the need for alignment of executive pay with that of other groups is recognised. There is some concern about staff and student membership and especially the challenge for changing student representatives to develop understanding. Rather than use the scheduled July meeting to consider remuneration, that will be deferred until September with the July meeting being used to consider our report and emerging guidance from CUC/OfS, as well as the content of the annual remuneration statement.

160. We hope that the Committee will, once it has reviewed our report and Council's decisions on it, accept our arguments for a change: in membership and remit, the receipt of information (but not decision-making) on professorial pay, the need to assess performance against objectives, work within policies and parameters set out by Council and report its decisions/recommendations transparently.

Reversing Council Delegation

161. We are aware of arguments from Court and elsewhere that Council should take back decision-making

on senior executive remuneration. We do not think even a smaller Council would be well-equipped to do this and it would fly in the face of good practice just when the University needs to demonstrate it. Governing bodies are advised by committees for good reason; committees are able to distil and discuss issues in a way that would be impracticable in a Council meeting considering many issues. A number of members and attendees would need to leave the room and the Chair would need to change for remuneration items so the work might as well be done by a Committee as a depleted Council. We think it is preferable for the concerns which led to calls for Council to take back remuneration to be dealt with through a reformed RemCo and process rather than the adoption of a noncompliant process.

We **recommend** that Council sets the Senior Remuneration policy and parameters and RemCo should work within them reporting transparently and accountably to Council.

Nominations

162. The CUC Code (Element 7.3) requires governing bodies to "establish a Nominations Committee (or similar) to advise it on the appointment of new members and the terms of existing members as well as the perceived skills balance required on the governing body. Normally final decisions on appointment are taken by the governing body". Nominations Committees are also a feature of corporate governance in the private sector, NHS and further education. In further education, they are often called Search and Governance Committees with an overview of wider governance issues

e.g. emerging good practice and the committee structure. The LFHE recently (November 2017) produced a very helpful Illustrative Practice Note 7 on the role of nominations committees available at www.lfhe.ac.uk/governance.

163. The University's Nominations Committee has a lay majority as required and also three staff members. It is chaired by the Chair of Council and the President and Vice-Chancellor and Chair of Academic Assembly are ex officio members. One other staff member is elected by Council and the other appointed by the Chair. The quorum is one third of the members, so it is possible for the Committee to be quorate without a lay majority. We **recommend** that the quorum should require a lay majority to be present.
164. To be consistent with our proposal for RemCo membership we **recommend** that a student member of Council should sit on the Nominations Committee so that students are represented on both the remuneration and nominations processes. In the short term this would require the appointment of another lay member to the Committee to retain the lay majority, but Council has the option to reduce staff members from three to two should it so wish as terms of office expire.
165. The Committee's remit is to consider nominations for appointed members, officers of Council, members of Court appointed by Council, Audit Committee members, co-optations to Council committees and University appointments to external and internal bodies. The Committee is asked to

have regard to the balance of membership on Council and the needs of the University but there is no reference to equality and diversity or succession planning for example. We **recommend** that Council reviews the remit of the Committee using the LFHE Illustrative Practice Note 7 as a template.

166. We have already considered issues relating to the size and composition of Council. We have **noted** that the Council and Nominations Committee consider a skills matrix and information on diversity. Nearly one third of Bath's Council is female, in line with the target set by Lord Davies of 33% for top 350 companies by 2020 but short of HEFCE's target of 40% by 2020. A current recruitment process to replace four appointed members provides an opportunity to make progress since all the retiring members are male. Given the skills deficit referred to above relating to higher education, research, public life and the voluntary sector we **suggest**, all things being equal, that the current selection process pays attention to these areas given that the advertisement is wide in scope.
167. The LFHE note also provides examples of good practice elsewhere and advice on equality, diversity and the development of Nominations Committee members. The University encourages applications from under-represented groups but, like many universities, the composition of the governing body does not reflect the cosmopolitan nature of the University community. While we do not minimise the challenge we are aware of interventions in other organisations that have

had some effect as outlined in Table 17.

Table 17: Council Member Recruitment - Equality and Diversity Interventions

- More specific and targeted advertising;
- Working with community leaders and the voluntary sector;
- Bringing people on to committees or other engagement with the University as a precursor to possible Council membership;
- Seeking members from more multicultural areas e.g. Bath might focus on Bristol;
- Making reasonable adjustments to meeting times and locations;
- Considering remuneration for those who could not afford to serve on Council without it;
- Engaging recruitment consultants with a track record of identifying candidates from under-represented groups;
- Appointing members from overseas;
- Using alumni networks and social media to identify candidates.

168. We **recommend** that Council and the Nominations Committee review the recruitment strategy for appointed Council members in the light of our advice, with a view to creating a more diverse Council, not only in terms of under-represented groups, but also in relation to background, skills, experience, cultural identity and geography. Generic skills such as the ability to debate, assimilate evidence, challenge constructively and think creatively and originally are complementary to and often more important than a specific skill set. We also **recommend**

that the role description for lay members be reviewed since it seems to focus on ambassadorial and fundraising work rather than governance and holding to account.

169. A skills matrix is considered on an annual basis. However, this seems to be based on individuals' own assessment of their expertise. Our experience with other organisations is that this does not always result in an accurate picture of skills and experience. It also means that the assessments may not be based on consistent criteria. (For example, claiming finance expertise does not require an accounting qualification.) We **recommend** that the Nominations Committee considers the skills and experience matrix so that it assists the Committee in determining where Council has skills and experience gaps and where recruitment should be targeted. For example, a professionally qualified building and estates executive with experience of major building project management.

In respect of the nominations to Council committees we **recommend** that the lay members are appointed on the basis of their skills and experience rather than election. The staff member positions can be subject to election if that is preferred by the staff members or by Nominations Committee recommendation. Student positions on sub-committees can be agreed after consulting the student members. The terms of reference should clearly identify the membership in these categories. The Chair and Deputy Chair positions on Council committees should be approved by Council on

the recommendation of the Nominations Committee.

170. It should be noted that equality and diversity is clearly a priority throughout the University and this was reflected in the views articulated in the review survey, in which 60% of respondents strongly agreed or agreed that the University promotes equal opportunities and that the University promotes diversity.

Observation of Meeting

171. We observed the Nominations Committee on 22 February 2018, held prior to the Council meeting later that afternoon. As noted above, we recognise the convenience of this but it does not give time for Council members to consider important issues on the basis of a written report provided prior to the meeting. Overall, the meeting was run well, and the Committee Chair made a point of getting input from all committee members on key items requiring decision. He went around the table asking each their views. Where appropriate, executives left the room when there was a potential conflict.

172. The Committee discussed a wide range of issues, including the Chairship of RemCo, the appointment of a Vice-Chair of Council and the opportunity to create more diversity on Council in the light of vacancies for appointed members. The discussions were appropriate and inclusive, and the meeting demonstrated the value of having staff members on the Committee.

173. It was queried at the meeting and later at Council as to why the Chair and Secretary had

suggested the appointment of a Vice-Chair and the nominee, rather than seeking expressions of interest. However, we understand that has not been the previous practice for Vice-Chair appointments. We can see the case for a reformed Nominations Committee selecting a preferred candidate, but we **suggest** that a Council be consulted before rather than after the fact in future.

174. Having observed a well-conducted meeting we **conclude** that the Nominations Committee, reformed in line with our report, will be fit for purpose.

Audit

175. The University is, in our opinion, compliant with the CUC Guide and HEFCE's Memorandum of Assurance and Accountability in respect of the membership and role of its Audit Committee. The Memorandum has novated to the OfS during a year of transition so is still in force.
176. The Committee, in accordance with good practice, comprises external members. Three of the five members (including the Chair) are female which is unusual in relation to Audit Committees in particular in our experience and is to be **commended**. Four members are lay members of Council. Two members, again in line with good practice, are external non-members of Council appointed by Council on the recommendation of the Nominations Committee. However, one of these vacancies is not currently filled and we would **suggest** that Council takes steps to do so as soon as possible. The Committee is



The meeting was run well, and the Committee Chair made a point of getting input from all committee members on key items requiring decision.



compliant in terms of members with recent and relevant experience in finance, accounting and auditing, having no members also serving on the Finance Committee, no staff members (who are not regarded as independent for audit purposes) and the Chair of Council not being a member.

177. The Committee is responsible to the Council for reviewing the adequacy and effectiveness of the University's system of internal control and risk management, governance and value for money arrangements. It has detailed terms of reference which map well on to model practice. Many Audit Committees have changed their titles to reflect the growing importance of oversight and assurance in relation to risk management. We **recommend** that, in view of its remit in relation to risk assurance, the name of the Committee be changed to Audit and Risk Assurance Committee (ARAC).

178. We observed the Audit Committee meeting held on 18 April 2018. The meeting was attended by all the members of the Audit Committee. The President and Vice-Chancellor was in attendance for most of the meeting and other senior executives were present to provide advice and information, but the Committee had opportunities to meet without executives present. We commend the diligence of Audit Committee members and the commitment of executives to its work. We understand that the University invites external auditors to every meeting and were surprised that they were not in attendance. We **suggest** that the external auditors and the internal audit service, are

routinely in attendance at meetings.

179. We reviewed one year's cycle of papers for the Audit Committee, interviewed the members including the co-opted member and observed one meeting of the Committee.

180. The agenda cover the right areas. Overall, the papers are well-written and relatively easy to follow, though some papers contain a lot of detail and would benefit from executive summaries to draw out key issues rather than leaving it for the members of the Committee to work things out for themselves e.g., BUFDG Audit Survey 2017 and KPMG HE Financial Statements Benchmarking report for 2015/16. The covering note accompanying the accounts for review and recommendation to Council (November meeting papers) sets out the Audit Committee's responsibilities, but contains nothing particularly insightful to help members make an assessment of the financial statements and annual report. (They are, however, accompanied by PwC's report).

181. Conflicts of Interest are not considered at the start of each meeting but will be in future if our recommendation on declarations of interest is adopted by Council and its committees.

182. The size of the committee looks reasonable. There should be two appointed members but there is currently one vacancy. The one appointed member has a term of only one year which seems odd given the time to get up to speed. There have also been many changes to committee membership during the course of



We **commend** the diligence of Audit Committee members and the commitment of executives to its work.



the previous twelve months. The reasons for these changes are not evident from the papers and such considerable change is not helpful. It is important that, as the co-opted members are not on Council, extra effort is taken to ensure that they have the necessary general information to enable them to keep up-to-date with the key developments in the University e.g., access to Council papers and minutes. The lack of a broad understanding may otherwise impact on their ability to contribute at the Committee.

183. The terms of reference are presented as a list of duties rather than being more structured e.g., by theme – financial statements, external audit, internal audit. They were included in the October meeting for noting but it would be good practice to review the terms of reference annually. The term of reference relating to the Financial Statement reads: “To consider elements of the annual financial statements in the presence of the External Auditors, including the auditors’ formal opinion, the statement of members’ responsibilities and the statement of internal control, in accordance with HEFCE’s Accounts Directions. The Committee will consider the final version of the audited financial statements after they have been submitted to Finance Committee”. We **recommend** that the terms of reference explicitly set out that it is responsible for considering whether the University has adopted appropriate accounting policies and, where necessary, made appropriate estimates and judgements. The Audit Committee should review the clarity and completeness of disclosures in the financial statements and consider whether the disclosures made

are set properly in context. (FRC guidance on audit committees). We **recommend** that the Audit Committee’s responsibilities in relation to other committees such as Finance Committee and Remuneration Committee are set out clearly. Currently the Financial Statements go to the Finance Committee, then the Audit Committee and then Council. It is important that the role of each Committee is understood. Normally, it would be the Audit Committee’s role to **recommend** the Financial Statements to Council. Some Universities involve the Finance Committee as a support to Audit Committee given the financial expertise on that Committee but normally their main focus is on whether the budget and/or out-turn forecast was achieved and if not why.

184. external audit tender took place in 2016. KPMG were succeeded by PWC as auditor. During the year, the committee commendably realised that KPMG undertook some VAT work on a contingency fee basis and agreed that work should not be done on this basis in future by the external auditors. However, arguably, the committee should pre-approve this sort of work rather than find out in retrospect. It was noted that PWC only chose to attend some meetings of the Committee. We **recommend** that the external auditors attend all meetings of the audit committee and to share their experience on any issues raised at the Committee including examples of best practice.

185. The Audit Committee oversees the work of internal audit and receives all of its reports in full. This is not necessary and

results in the papers being quite voluminous. The Committee could just receive summaries of the reports with the possible exception of the more contentious reports. Internal Audit's strategic plan is clearly set out and presents a helpful forward view of its coverage. Internal Audit is an in-house function. There is a potential risk that such functions do not keep up-to-date with new audit technologies, processes and requirements. It is suggested that the Committee considers having a review of internal audit and its processes every 3 years or so to assure itself that the function is performing efficiently, effectively and economically. There is little external resource used by Internal Audit - total Internal Audit days are budgeted at 775 days and only 17 days are external. The Committee should consider whether greater use of external resource in specialist areas would be helpful. Some Universities have started to use internal audit expertise to give assurance that academic processes approved by Senate are operating as Senate intended. This has become more relevant now Council has to give academic assurances to the OfS and Senate may find this assurance helpful.

186. University Audit Committees have a role in reviewing the effectiveness of risk management. Given the volume of business at Council, there is merit in Audit Committees becoming Audit and Risk committees and in so-doing support Council through more detailed scrutiny of risk including cyclical discussions with key risk owners. The University of Bath is taking this approach with a presentation on risk at each meeting for example, the April

2018 meeting discussed HR risk with the HR Director. We **commend** the University for this practice.

187. Both the Audit Committee Annual Report and the Internal Audit Report are good documents. The Audit Committee Annual Report makes reference to the work of Internal Audit. However, neither report provides qualitative information about the nature of issues that have arisen. (e.g. overall, the extent of weaknesses identified is not considered fundamental to the internal control framework of the University.). The Internal Audit Report summarises all of its reports issued as an appendix. This is probably unnecessary detail. However, the main body of the reports could summarise key issues identified during the year.

Finance

188. We should record that, in the time available, we have prioritised Council itself, nominations and remuneration and other areas where the evidence base has pointed us. Finance Committee generally has not been raised as a concern with us and when it has been discussed has tended to be given a clean bill of health. Some questions have been asked as to whether it is too powerful and, ironically, whether the quality of its work is so good that it inhibits further discussion at Council i.e. it produces a diamond rather than a piece of coal that Council can chip away at.

189. We have reviewed the membership of the Committee which is what we would expect of a Finance Committee. It is chaired by the Treasurer (a lay

member of Council in chartered universities as opposed to the executive Director of Finance), the President and Vice-Chancellor is ex officio, and there are six other Council members, three lay, two academic staff and the Student President or nominee ex officio. We noted that the lay members are elected to the Committee and we **recommend** that they should be nominated and not elected as this is more likely to match more appropriately their skills and experience to a particular Committee.

190. The terms of reference set out the responsibilities of the Committee and seem appropriate. It is responsible to Council for the financial strategy, budget setting, annual accounts, monitoring of investment activity and consideration of capital expenditure. However, the terms of reference list 17 items and it would be helpful if it was a more structured list. We noted that it did not explicitly include a role in monitoring expenditure on major projects, however a regular financial report is presented to the Finance Committee for all projects over £2m. We **suggest** that a summary schedule of all these projects, underway or even in the pipeline could help the Committee track progress and give a helpful overview. Also, we have made a recommendation that the responsibilities of the Finance Committee and the Audit Committee should be clearly defined in respect of the Financial Statements in the Audit Committee section of the report.

191. We reviewed the Committee papers from February to November 2017, discussed the Committee's work with interviewees but did not attend

a meeting of the Committee. The papers are of good quality though they can be voluminous – November 2017 had over 500 pages. The annual calendar follows a reasonable schedule. The minutes set out responses to questions. The 'story' of the recent loan placement is well explained, each paper updating the previous as the story moves on. The papers show the right things have been considered: purpose, alternative sources and a preferred option, timescales, risks, scenarios and sensitivities (including modelling), loan capacity, impact on covenants of other borrowings.

192. Some universities have replaced Finance Committees by Strategy, Performance and Resources Committees or similar on the grounds that human and physical resources need to be considered alongside finance as the key enablers of academic strategy. In this way, they do not cancel each other out. It is also argued that performance across KPIs needs to be monitored more closely and regularly than possible in Council meetings. We are aware that this "joining up" is done at executive level, but Finance Committee (as its name implies) focuses very much on financial matters. It might be helpful to Council for a committee to oversee all resources required to underpin strategy and to monitor performance of delivery. We **suggest** that Council considers this approach.

193. It may be worth mentioning that some Universities have disbanded their Finance Committees and increased the number of times Council meets or the length of its meetings. The aim has been not to duplicate matters by having a committee

and to ensure all members of Council are engaged in the discussion of these matters and take responsibility for them. This is normally accompanied by a review of delegation to ensure that Council has the time to act with strategic oversight on this level of increased business by delegating appropriately to the Executive.

194. There does not seem to be a regular review of the Committee's effectiveness and we would **recommend** that all committees have such a review. It can be light touch annually but should be more formal every 3-5 years.

Link to Strategic Plan and Key Performance Indicators (KPIs)

195. Our remit requires us to review the ability of Council to support the University in the delivery of its Strategy 2016-21 and to consider the effectiveness of KPIs and benchmark institutions. The Strategy is very well designed and presented, but is not a working document containing data and targets. It would therefore be very challenging to construct an operational plan and KPIs from the Strategy for Council to monitor. Clearly, Council can only support the University in the delivery of strategy if it is able to scrutinise corporate targets through a range of relevant KPIs benchmarked against institutions which are either competitors or aspirational peers. We have reviewed Council papers for October 2017 which reported on KPIs and benchmark institutions and an initial report in May 2017 and our comments are set out below.

196. The October 2017 report states that it is an annual report and covers 10 KPIs covering Research, Learning & Teaching, Student Experience, Knowledge Transfer, Estates and Finance. It provides tables comparing each KPI for the period 2009/10 to 2015/16 against the performance of seven other Universities. Graphs are also provided for six of the KPIs. There are no institutional targets for the KPIs for the Strategy period 2016-21 and the May 2017 paper states that "in reviewing the University Strategy for the period 2016-21, it was agreed that the University would no longer publish these KPIs as part of the text. However, we have retained this annual report in order to provide Council with an update on the latest performance information that the University has in these key areas". The paper goes on to state "Unlike the Corporate Plan 2010-13, the University Strategy 2013-16 did not include generic targets. It was agreed that discipline-benchmarked performance targets had greater credibility than generic corporate targets. Faculties were asked to consider benchmarked performance data at the discipline level and establish their own targets as part of the planning process in 2013/14". We did not see any reporting to Council in respect of these targets.

197. Several issues are raised from reviewing the KPI reports. The performance data is historical - in October 2017 the most recent data is for 2015/16. There are no aspirational targets for the period 2016-21 against which Council can judge progress or the benefit of investing in particular areas and no action points identified. The report is understandably annual given the



Council can only support the University in the delivery of strategy if it is able to scrutinise corporate targets through a range of relevant KPIs benchmarked against institutions which are either competitors or aspirational peers.



datasets used but there could be an interim report which is possibly what is intended by the May 2017 report. The report is largely data tables without any real analysis or explanation. In order for Council to support the delivery of strategy we would **suggest** that Council adopts good practice as outlined in Table 18 below.

Table 18: Suggested Practice Regarding KPIs

- Council agrees a relatively small number of institutional KPIs derived from the Strategic Plan or a related operating plan.
- Date specific targets are set for these KPIs – perhaps to the end of the Strategic Plan 2021 and the mid-point 2018;
- Reports on progress are given at least twice a year to Council (where changing data is available), including a commentary and RAG ratings on each indicator covering likely achievement of the targets. The reports should not just be datasets but discuss issues and actions;
- Consideration as to whether there are some indicators which can help suggest likely future directions and are therefore worth monitoring e.g. research grants normally are awarded for several years and so applications and awards can help give an indication of future income;
- A record of discussion and actions taken by Council to monitor and improve performance;

- Given that Bath is not a member of a mission group routinely sharing information, attempts could be made to share data informally on a benchmarking basis, although it is accepted that commercial considerations will come into play;
- Publication of progress, at least internally, so that academic and professional services departments can be kept informed and contribute to progress. The Annual Report and Financial Statements would normally contain information on the Strategy itself and progress.

198. We accept that some KPIs e.g. in relation to REF results will not change between reviews and that there will be a lag in publishing comparative data in relation to areas such as graduate level employability and staff/student ratios, but some will and it is important for Council to maintain a focus on performance. KPIs are a good entry point for challenge because they are comparative and impersonal.
199. The current comparators are Bristol, Cardiff, Durham, Exeter, Lancaster, Warwick and York. We have not seen a rationale for this list other than Bristol, Cardiff and Exeter are fellow members of the Great Western 4 (GW4) alliance. The others listed make sense to us. We would also **suggest** that Loughborough (similar ranking, sport and STEM-heavy and no medical school) and Surrey might be considered. Given that most of Bath's competitors now have medical schools we accept that like-for-like comparisons are not straightforward. The current indicators are appropriate, but there are no specifically international or enterprise/engagement/innovation indicators, notwithstanding the



It is important for Council to maintain a focus on performance. KPIs are a good entry point for challenge because they are comparative and impersonal.



Strategy's coverage of these areas.

200. In the light of the above we **recommend** that Council commissions a review of KPIs linked to strategy and benchmarked competitors with a view to receiving regular reports with commentaries and RAG ratings against targets derived from the Strategic Plan against which to measure institutional advancement.

Risk

201. We reviewed the risk papers for Council for November 2017 and February 2018. Generally, the papers are well written and easy to read. The focus is on the top eight risks. For each risk, performance, sustainability and compliance are considered. The appendix to the paper contains the "risk register and risk management plan". The result is the risk description in the main paper comes across as a generic risk description where it would be helpful to have something specific about the nature of the risk. However, there is a good focus on actions in the main paper. There is a good process whereby the Executive reviews all key risks before each Council meeting.

202. The approach to risk management and the Risk Register are generally sound, but there are opportunities to enhance it as outlined in Table 19 below:

Table 19: Opportunities to Improve Risk Management Practice

- Risks identified as the top risks should be the risks to the achievement of strategic objectives. This important link between objectives and risks should be made evident in the risk papers.
- The format of the detailed Risk Register is generally in conformity with what we see at other organisations. A 'heat map' style presentation (on a 5x5 matrix) could be a useful depiction of gross and net risk to aid understanding. The Risk Register helpfully specifies "improvement actions" and the risk owners.
- The risk approach at the University of Bath could also be usefully enhanced by considering emerging risks more explicitly. For example, what risks are not on the register but are growing in importance and might soon become a top risk, or what risks have other organisations (not just in the HE sector) faced but are not captured on the Risk Register?

- It could also be helpful to consider contingent risks (those with low probability but high/catastrophic impact). Varying the focus helps to maintain engagement and avoid the Risk Register become a paper which is tabled and agreed without discussion.

203. The Audit Committee, on 4 October 2017, requested that the approach to managing reputational risk be reviewed. Subsequently, for the February Council, reputational risk was added as a risk to make nine key risks. This ninth risk is described as “superordinate reputational risk”. The evidence of increased likelihood/impact surprisingly cites only (i) negative national media coverage around the meeting of Court on 16 January 2018, and (ii) negative local media coverage of the historical conversion of student bedrooms to offices. The detailed Risk Register might have considered more the causes of the current negative coverage.

204. We have **recommended** in the Audit Section of this report that Council considers whether the Audit Committee might become the Audit and Risk Assurance Committee.

Court

205. We are asked to review the relationship between Council and Court. We have also been asked by Council to review a series of resolutions passed to Council by Court following its January 2018 meeting, which we observed.

Powers and Membership of Court

206. The Charter (Article 11) states: *“There shall be a Court of the University (...) which shall be the formal body representing the interests of the University’s constituencies and shall have power to make representations to the Council on any matter affecting the University”*. The Statutes (Section 13) sets out the membership of Court, totalling some 200 (although a large number considerably smaller than many Courts elsewhere). They include ex officio, life, representative, elected and co-opted members. Court meetings are held annually within 15 months of each other. The Court is essentially advisory in nature, but it does have powers to make representations for the appointment of a Visitor (which it has now done), and to appoint the Chancellor and Pro-Chancellors on the recommendation of Council (the Chancellor is the ceremonial head of the University; the Pro-Chancellors support the Chancellor but are also members of Council). Court receives an annual report from the Vice-Chancellor and is also required to receive the audited accounts for the previous financial year. Finally, Court can make representations to Council on any matter affecting the University. It is entirely a matter for Council as to how to deal with these representations, as long as it receives them. Under a special resolutions procedure set out in the Charter, Court also has to consider recommendations from Council and Senate jointly to amend, add to or repeal the Charter or any Article(s) of it, prior to submission, if approved, to the Privy Council Office. Unusually, there is no

requirement in Charter or Statutes for the University Secretary or equivalent to act as Secretary to Court. However, this has been addressed as Court's recently approved Standing Orders now make clear both the role of Secretary to Court and that the University Secretary "shall provide advice at all meetings".

Observation of Meeting

207. We observed the January 2018 meeting of Court, but not the meeting held in February 2017 which, by common consent and in the words of the Chair of Council to Court in January: "was not the University's finest hour", leading as it did to a complaint to HEFCE, much unfavourable publicity and HEFCE's judgement that the reputation of the University had been damaged. The Chair also stated: "It was in my view a difficult and unsatisfactory meeting and HEFCE is right to say that it was poorly handled. Members of Court who were present will draw what conclusions they wish about the way in which it was chaired but the voting process was flawed and the Vice-Chancellor and I have already apologised for the way it was handled and for voting on the motion". As noted above, the University Secretary has also apologised.

208. We observed the January meeting in the knowledge that it would be linked to the outcome of the previous one. Over 100 members were present compared to 70-90 in previous meetings. The meeting lasted from 1417 to 1800 hours without a break, even though many of the individuals present were elderly. It was clear that, at least for

some members of Court, there was little trust and confidence in Council. The meeting took over an hour to work through Standing Orders for Court (none were previously in existence and HEFCE recommended they be put in place). Much of the rest of the meeting was taken up with a series of motions and amendments, including one (Amendment 1) calling for the immediate resignation of the Chair and Vice-Chancellor²² which, although it had no formal standing, was passed by 36 votes to 33, with 20 abstentions. Contrary to February 2017, members of RemCo and those whose remuneration is set by it declared an interest and, other than the Chair of Council who made a statement as recommended by HEFCE, took no part in discussion or voting. In fact, Council members and senior staff were passive throughout the meeting other than for the Annual Report and the accounts where the Vice-Chancellor and Director of Finance spoke respectively. The meeting was chaired by a Pro-Chancellor in a manner which enabled very full participation and lengthy debate which was clearly necessary following the previous meeting.

The Need for Change

209. On the basis of the meeting we observed and the consistency of accounts of the 2017 meeting, we have to **conclude** that relations between Court and Council are poor and need to improve for the sake of the University. Views among interviewees are sharply divided and strong views are also expressed in the survey. Some feel that Court is treated with contempt by Council and that Court should have more powers; others feel that Court is

²² Court Minute 7, January 2018, Amendment 1

archaic and largely attended by members who are disaffected, resistant to change and living in the past. A number of Court members feel vindicated by HEFCE and that, had they not “blown the whistle”, what they see as excessive levels of remuneration would never have been brought under control. Others feel that Court has damaged the University and that the tactics of some of its members have been politically motivated. While accepting it is a counsel of despair, some feel that attitudes have hardened so much that reconciliation is impossible. Having interviewed so many people and found much that unites them in terms of passionate support for the University, we take a more optimistic view. We believe that it must be possible for Court and Council to reach an accommodation to avoid the standoff we observed in January in future, especially since even without those conflicted voting, 33 members voted against the call for resignations.

210. People on both sides of the argument agree that the composition of Court does not reflect that of the wider population nor the University community and needs to be modernised. We are aware of ten chartered universities which have reformed or replaced their Courts in order to promote engagement, avoid confusion (Courts are often confused with the justice system or assumed to be the governing body as they are in Scotland) and promote openness through not restricting attendance. Some have followed the NHS foundation trust model and introduced Annual Public Meetings open to all, some have a General Assembly, some a Charter Day to showcase the

university and some an AGM. We **recommend** that Council as the governing body commissions a review of Court, including Court representation, to seek ways and means of modernising Court as part of a deeper and broader engagement strategy, while preserving and enhancing the ability of stakeholders to challenge and speak truth to power.

Senate

211. We have not carried out an effectiveness review of Senate and its sub-committees. However, we observed the February 2018 meeting of Senate, discussed the operation of Senate and its relationship with its subcommittees and Council with interviewees and briefly reviewed the last 12 months of Senate papers up to and including February 2018. Senate met five times during this period. We paid particular attention to the Annual Provider Review and the new Education Strategy.

212. The following extracts from OfS and HEFCE documents set out the current assurance responsibilities of Council for academic quality and standards:

*“During the transition period the OfS is subject to the 1992 Further and Higher Education Act’s duty to secure that provision is made for assessing the quality of education provided in institutions for whose activities it provides, or is considering providing, financial support. Up to 31 July 2019, the OfS will discharge this duty using an approach that replicates the Annual Provider Review process adopted by HEFCE in previous years”.*²³

The new assurance statements

relate to the governing body's oversight of academic governance arrangements as set out in the Higher Education Code of Governance and focuses on:

- The continuous improvement of the student academic experience and of student outcomes.
- The reliability of degree standards.

"It is not our intention that the governing body be drawn into quality management activities itself, but rather that it receives reports and challenges assurances from elsewhere in the provider. This does not alter the well-established relationships between governing bodies and senates or academic boards (or equivalent). The evidence on which an individual governing body's assurances are based, and the way in which it chooses to receive and challenge information, will be shaped by the particular arrangements in that provider. Each governing body is, therefore, responsible for determining the approach that it will take. For example, there is no standard template for reports or action plans and each governing body will determine its own requirements".²⁴

The Assurance to be given in 2016/17 read:

"As a governor and on behalf of the governing body, I confirm that for the 2015-16 academic year and up to the date of signing the return:

- *The governing body has received and discussed a report and accompanying action plan relating to the continuous improvement of the student academic experience and student outcomes. This included evidence from the*

provider's own periodic review processes, which fully involve students and include embedded external peer or professional review.

- *The methodologies used as a basis to improve the student academic experience and student outcomes are, to the best of our knowledge, robust and appropriate.*
- *For providers with degree-awarding powers: The standards of awards for which we are responsible have been appropriately set and maintained".²⁵*

213. We believe this assurance process is very important. Whereas Councils have traditionally been primarily concerned with resources, academic quality and standards are fundamental to the mission and reputation of the University and its delivery of a quality student academic experience. The greatest power that a University has is to award degrees. Council should therefore receive assurance and be competent to challenge the assurance that the governance and management of academic quality and standards is effective.

214. The Annual Provider Review document at Bath is a substantive document covering 54 pages which is presented as a paper to Senate and from Senate to Council. It meets the requirements of HEFCE but our interviews revealed that there was little or no discussion of the document at Council, and there was some concern that Council would be unable to discuss and challenge given Council's current knowledge and membership. This is one of the reasons why we **recommend** that Council considers the diversity and skills

²³ Paragraph 42, OfS Terms and Conditions of Funding for Higher Education Institutions for the period to 31 July 2019

²⁴ HEFCE 2016/29 Annual Provider Review

²⁵ HEFCE Circular letter 25/2016

of its membership and appoints a member with considerable HEI experience (possibly a former Vice-Chancellor or Senior Officer). Council should also **consider** whether it would be helpful if a Committee such as Audit Committee reviewed the document before Council in order to support Council and develop challenge at this level.

215. In addition, we would suggest the following may be useful in developing Council's knowledge of the work of Senate: the development of an induction document on academic quality and standards for members, briefings for Council members on academic governance and quality and standards issues, and more opportunities for Senate and Council members to meet and discuss informally. Some Universities have also encouraged Council members to observe a Senate.

Senate meetings tend to be short – three of the five meetings lasted between 55 and 80 minutes. The longest was in November 2017 – 195 minutes when a vote of no confidence was taken in respect of the Vice-Chancellor. The majority of Senate members interviewed found the November 2017 discussion very healthy, well-chaired with very good participation and balance. It is perhaps worth noting that the vote was narrowly in favour of the Vice-Chancellor and 70% (see below) of the Senate membership was elected from the staff or students.

216. There has been a tendency for Senate to rely heavily on its sub-committee structure and to approve items without much discussion unless there are concerns. Concerns have

been expressed about the new Education Strategy and the timetable for its implementation and this is provoking regular discussion and review.

The membership of Senate currently comprises a potential 41 members:

- 12 ex-officio including Vice-Chancellor (Chair), Deputy Vice-Chancellor and Provost, 3 Pro Vice-Chancellors, 4 Deans, Librarian, Chair Academic Assembly and Chair PAPAC.
- 12 elected from the Professoriate
- 13 elected from the academic assembly by the non-Professorial members
- 4 students

There is the potential to co-opt up to four members from the academic staff but this has not been implemented currently. In the year to and including February 2018 three meetings had between ten and fifteen apologies. In November 2017, there were only two apologies. The level of apologies is not unusual for the sector but there is a debate to be had as to how the effectiveness of Senate could be improved by a smaller membership as against the traditional engagement of a large number of academics/scholars. In addition, the elected and student members total 29 of the 41 members i.e., 70%. Again, there is a debate to be had as to whether it would be advisable to have a better balance between those with institutional responsibility for academic quality processes and those elected from the academic staff.

217. Senate is due a cyclical effectiveness review and we **suggest** that these issues are considered as part of that review.

The review should be undertaken by an external party with good knowledge of the sector’s academic quality and standards arrangements and the likely changes that will happen under the OfS. Finally, the review should also cover the effectiveness of the Senate sub-committees so that assurance can be taken by Council and Senate. In our opinion reviews of the sub-committee structures should be undertaken on a regular basis.

218. Many of the recommendations and suggestions made in respect of Council business apply to Senate e.g., introducing a more structured agenda to encourage discussion, having an agenda item for declarations of interest, eliminating reserved business at Senate, the presumption that the confirmed minutes should be placed on the University’s website unless there is a compelling reason for redacting or withholding information. The withheld information should be kept to a minimum.

Additional suggestions are summarised in Table 20 below.

Table 20: Suggested practice for Senate

- Senate considers whether any elements of the institutional risk register should be discussed at Senate.
- Urgent Business approved outside the meeting should be covered in Part 1 of the Agenda rather than being incorporated in the digital section in Part 3 where it can be easily overlooked.

- Part 3 papers mostly comprise the Senate Sub-Committee (unconfirmed) minutes. There is a potential risk that members do not read these digital documents. It would be helpful if there was a paper in Part 1 which highlighted any key issues or information from these sometimes-voluminous papers which might help members of Senate.
- The terms of reference of Senate run to three pages and 43 points. It is difficult to discern the key responsibilities from these and it is suggested that this be reviewed along with the Charter and Statutes.

Note: *The Chair is authorised to act on behalf of Senate during the vacation and at other times to deal with urgent business which requires a formal decision before the next available meeting of the Senate, subject to report of any action taken to the next meeting of the Senate. This is on the basis that, if any such matter is expected to be of significant interest or the subject of significant debate, members of Senate will be consulted by correspondence before any decision is taken or a special meeting of Senate will be scheduled (Senate Standing Order 7(viii)).*

Charter and Statutes

Governance – Legal Framework

219. Since 2006, it has been possible for individual Chartered Universities to petition the Privy Council for a modernised version of their Charter & Statutes. When agreed, this reduces the size of the documents considerably with most of the clauses in the previous Statutes moving to Ordinances. These can then be changed and agreed by the University without Privy Council approval. In Further Education, a different approach was taken where legislation – Education Act 2011 - enabled all Colleges to have significant freedom to make changes to much of their Instruments and Articles of Governance.

Many Universities have made these changes because:

- It enables them to make necessary governance changes quickly as issues arise or are anticipated rather than through a complex and lengthy process with an external agency.
- It enables the Model Statute to be changed internally subject to negotiation with the University and College Union (UCU) and modernised.
- It enables the University to agree on what basis it will dismiss or discipline a Vice-Chancellor in accordance with employment law rather than it being prescribed in the Model Statute.

220. Bath has not chosen to make these changes and the Charter & Statutes resemble what would have been found in the 1980s across the HE Sector. Our proposed changes to the regulatory framework at Bath are outlined in Table 21 below. Given the number of changes proposed it will be necessary to prioritise those required to enable our recommendations.

Table 21: Requirements for changes to regulatory framework at the University of Bath

Changes	Approved by	
Charter (7 pages)	Privy Council	Court must approve a joint recommendation of Council & Senate by special resolution (75% in favour) at two meetings. The second meeting to be held within 1-3 months of the first.
Statutes (31 pages)	Privy Council	Council approves
Ordinances (43 pages)	Council	Charter states that changes can only be made after a report from Senate and on some key academic issues a recommendation is required by Senate.
Council Standing Orders (13 pages)	Council	
Regulations	Senate	Regulates academic work of University

221. It can be argued that it should be difficult to change Charter & Statutes as these contain time-honoured principles and the change process is designed to protect them. This is undoubtedly true of certain principles (a decreasing number of which now concern the Privy Council) such as academic freedom, lay majority on Council and the visitor. However, much in the Statutes covers not principles but detail around those principles. The difficulty in making a change to these can effectively mean that changes are not progressed and over time the Statutes become out of date and obstructive to good governance.

222. A good example of the need for Council to be able to react quickly is Statute 5.1 which became a key part of the Council discussions we observed in January 2018.

“5.1 The successors to the first Vice-Chancellor shall be appointed by the Council after consideration of a report from a Joint Committee consisting of the Chancellor, Chair of Council and two other members of the Council and three members of the Senate; the Chair shall be appointed by the Chancellor”.

Although the Vice-Chancellor had been in post for 17 years, the Committee’s membership and the Statute were still in place when the Vice-Chancellor resigned. Other than the two ex officio members, the practice has been to elect the other members every three years. Although this led to an all-male committee, we understand this could not be changed and there was no possibility of making a Statute change in time as the Privy Council process can be

lengthy.

The Statutes prescribe:

- Appointments of Key Officers including:
 - Pro-Vice-Chancellors to be no more than three in number.
 - Council appoints the Heads of School, the Librarian, University Secretary, Secretary to Council.
- Membership and functions of Court, Senate and Council - the duties of Senate (43 clauses) and Council (34 items) comprise a long unstructured list which then appear as their terms of reference which are consequently not an easy read or good governance for members or stakeholders.
- Functions of Boards of Study
- Establishing Congregation, Academic Assembly and Convocation
- Model Statute
- Student Appeals

Section 25 of the Statutes covers the “Model Statute” and runs to 12 pages. The rationale for change includes:

- a) The Statute covers academic staff rather than all the staff.
- b) Best practice has changed but is not incorporated in the Model Statute.

A debate can be had as to whether the arrangements at Employment Tribunals now adequately protect staff and whether governors should be involved in appeals etc. or whether this is more an executive rather than a governance function.

The Statute also covers the dismissal of a Vice-Chancellor in a process which makes it difficult to dismiss the Vice-Chancellor and

means an accommodation has to be reached, which has the risk of being excessive in the eyes of the public.

223. We also reviewed the delegation's framework. The scheme is reasonably set out though it is difficult to find on the web. We believe it can be reduced in length and that it should be part of the Ordinances as one of the key functions of Ordinances is to set out delegations to Committee and Officers. It is reviewed every three years as part of the Council effectiveness review and we would **suggest** that it is formally reviewed more frequently.

224. We **recommend** that Council seeks (a) Privy Council permission to modernise its Charter and Statutes and (b) following this approval agrees new Ordinances and Standing Orders with a view to ensuring that they can be easily understood and support good governance. This is a significant piece of work and will probably take several years to achieve. The Head of Governance should lead this work with the Senior Independent Director. For the avoidance of doubt, priority should be given to changes required to implement our principal recommendations without waiting for a general review.

The Court Resolutions

The HEFCE Report

225. The HEFCE report has been accepted by Council and HEFCE, while it was still in existence, was content with the University's implementation. The University actioned all 13 recommendations

in the HEFCE Report are included in Annex 10.²⁶

The Court Resolutions

226. Court passed a series of resolutions in January which were presented to Council in February. Rather than note them, comment or decide on them, Council noted them but decided to take no further action pending the outcome of our review. Our comments on these resolutions are included in Annex 10.

Communications and Culture

227. In higher education, the governance focus has tended to be on compliance rather than culture and this is reflected in our remit. However, as we have noted, in the private sector and the NHS, board and organisational culture is increasingly the focus, since compliance has not proved enough to prevent damaging crises. It is inevitable that things will happen to organisations; it is the way they deal with them that marks out the resilient and robust, with a reservoir of goodwill to draw upon.

228. Our survey, with some 1380 respondents to the set of questions around communications and culture, reveals significant pride in the University (58% agreeing or strongly agreeing that they are proud to be a member of the University community) and much support for the University's promotion of equal opportunities and diversity. However, the responses around culture should be of significant concern to Council - see Table 22:



58% agree or strongly agree that they are proud to be a member of the University community.



Table 22: Survey results Relating to Culture and Communications

- 51% disagree or strongly disagree with the statement: “the University listens to its staff, students and other key stakeholders.”
- 62% disagree or strongly disagree with the statement: “the University has an open culture of communication between staff/ students and the University leadership team.”
- 41% disagree or strongly disagree with the statement: “staff and students are encouraged by the University to make suggestions for change and improvement.”

When combined with generally negative narrative comments made in the survey and the near-universal output from interviews/group discussions with staff, students and other stakeholders, a picture emerges of a centralised structure with weak delegation and low levels of consultation. Some tempered their views with offering credit for the success of the University to senior management. Of course, it is not unknown for these sorts of views to be expressed in large or complex organisations, but we were struck by the unanimity of view across groups including academic and professional staff, senior managers, students and other stakeholders.

229. In 2016, the Financial Reporting Council (FRC) published a fascinating report on Corporate Culture and the Role of Boards. Using the output of 300 meetings, interviews with 23 FTSE 100 CEOs, 58 FTSE Chairs and a survey completed by 44 FTSE Chairs, the report is “designed to stimulate thinking

around the role of boards in relation to culture, and encourage boards to reflect on what they are currently doing”. Although it is set in a private sector context, it reads across well to other sectors in our view, in terms of its general messages. A number of quotes from the report speak to the concerns expressed in our evidence-gathering process:

- *“A healthy culture both protects and generates value. It is therefore important to have a continuous focus on culture, rather than wait for a crisis”*
- *“One of the key roles for the board includes establishing the culture, values and ethics of the company.”*
- *“A culture of engagement and “permission” is required for employees to feel able to voice their ideas and concerns”.*

230. The report links culture to risk and risk appetite. It provides a checklist of questions to boards on values and behaviour and identifies the areas of vigilance for boards as outlined in Table 23 below. Our evidence base clearly indicates that much of this checklist would resonate in the University and should therefore be of interest to Council. We would encourage Council to use the FRC report to support them to reflect on the University’s values and culture with a view to considering a how best to foster cultural change.



62% disagree or strongly disagree with the statement: ‘the University has an open culture of communication between staff/students and the University leadership team.



Table 23: Financial Reporting Council - board checklist on values and behaviour

- silo thinking
- dominant chief executive
- length of chief executive tenure
- leadership arrogance
- pressure to meet the numbers/over-ambitious targets
- lack of access to information
- low levels of engagement between leadership and employees
- lack of openness to challenge
- poor succession planning
- misaligned incentives and flawed executive remuneration processes
- tolerance of minor regulatory or code of ethics/conduct breaches by star employees
- lack of diversity
- hierarchical attitudes

231. Other universities have found that, when they reach a certain size similar to that of Bath now, command and control mechanisms cease to work effectively because the organisation is too large and complex for such a model. A number of interviewees have pointed out that a change of Vice-Chancellor does not necessarily mean a change of culture since processes and cultures have become embedded. Many staff (including those in academic and administrative management positions) strongly believe that the University needs to be reorganised according to the principle of subsidiarity i.e. the devolution of decision-making to the nearest sensible point of activity. Other universities have achieved this by creating

academic units of sufficient size and academic coherence to hold budgets and provide leadership, but not too large as to become amorphous and impersonal. All income is then allocated to the budget holders e.g. Deans, with central costs, space, utility charges and strategic development paid through transparent contributions from budget centres. This sort of bottom rather than top slicing approach incentivises budget centres to win income knowing they will retain it net of “tax”. It devolves decision-making and is empowering for staff, thus benefitting students.

232. It is beyond our scope to design the organisational development of the University, which must clearly await a new Vice-Chancellor. But, as part of an effectiveness review, we feel it is reasonable to point to other ways of doing things, given the desire from staff for more delegation, not only to empower them, but also to improve efficiency by shortening the chain of decision-making. Clearly, all this needs to be undertaken within a framework of accountability so that Council can be assured that budgets will be held responsibly.

233. We believe that much could be done to improve morale and communications prior to the arrival of a new Vice-Chancellor. For example, the ‘Let’s Talk’ process is felt to be overengineered and stage-managed with a strong feeling that participants are talked at rather than listened to. Council needs to be aware that many of the people it employs, whether through perception or reality, are afraid to raise issues for fear of consequences. This is the antipathy of the challenging

of received wisdom espoused as one of the University's core values. Council has a duty of care to students and staff to ensure that they are not exposed to inappropriate behaviours or subjected to undue stress. A number of consultees have suggested that 'Let's Talk' be reframed as a listening exercise, 'Let's Listen', with a much more relaxed and informal format where any issues within reason can be raised from the floor and discussed. We think this is a good suggestion which would be very positively received, alongside visits to areas of the University which look and feel like colleagues meeting colleagues.

234. The Acting Vice-Chancellor could embark upon such activities in order to provide a visible signal to the community that "things are changing". The incoming Vice-Chancellor would then be able to pick up the baton with a more extensive values creation and cultural change programme, with a view to ensuring that the University shares and lives its admirable values within a culture of supportive challenge and continuous improvement. The aim should be not to impose but to proceed on the basis, as Habermas expresses it, of the "force of the better argument".

235. Openness of communication should also apply to Council, with Council members as far as possible becoming more visible to the University community, improved communication of Council business rather than the outline summary currently provided and a real sense that Council is listening and leading the process of living the values and cultural change by the

way it conducts itself. We set our recommendations on communications and culture in Table 24 below.

Table 24: Recommendations on Communications and Culture

- Council should consider the University's culture in the light of the Financial Reporting Council (FRC) report (see text) and our report and evidence base with a view to improving transparency, rebuilding trust and encouraging two-way communication;
- Once the new Vice-Chancellor is in post, consideration should be given to organisational development designed to devolve decision-making and empower individuals;
- In the meantime, the Acting Vice-Chancellor should be visible to the community and conduct informal 'Let's Listen' sessions, visiting as many departments as possible with light-touch organisation and encouragement of discourse, dialogue and constructive challenge;
- Council should consider ways in which it can become more open and visible in its communications and engagement with the community, for example a more engaging and lengthier summary of Council discussion written by a staff member with internal communications experience and circulated as an e-news update, and open and informal meetings with staff across the university.
- Council members should be invited to key University events and attend where possible.

Conclusion

236. We recognise that some of our report may make uncomfortable reading for Council but we do believe it accurately reflects the evidence we have gathered during our Review and the majority of opinion as expressed to us through interviews, discussion groups and the survey. There may, of course, be a 'silent majority' with other views but by definition we cannot be aware of it. The recent controversy over senior pay has proved to be a proxy for wider concerns to which we have borne witness in the Communications and Culture section of our report. We hope that the evidence base provided in this report will be an important resource for Council and its committees as they move forward.

237. Throughout our Review members of Council have demonstrated openness to learn and improve the effectiveness of Council and its committees and strengthen the way in which it consults and communicates with University stakeholders. Indeed, much progress has already been made in particular with regards to improving the effectiveness of the Remuneration committee and engaging stakeholders in the recruitment of the new Vice Chancellor. It should also be noted positively that Council decided to commission a review methodology which included a survey of staff and students and gave opportunities for stakeholders to participate in discussion groups – these are not typical features of an effectiveness review of Council and its committees – and demonstrate their desire to engage with University stakeholders.

238. It is for Council to decide whether to accept our analysis and recommendations. The University of Bath is a fine university; our proposals are designed to support and enable it to move on to a finer future and, we hope, to become an exemplar for good governance practice in the sector.



The University of Bath is a fine university; our proposals are designed to support and enable it to move on to a finer future and, we hope, to become an exemplar for good governance practice in the sector.



ANNEX 1. TERMS OF REFERENCE

(Published by University of Bath)

1. BACKGROUND

- 1.1. The next full review of the effectiveness of Council is being undertaken in 2017/18 in accordance with the timescale set by Council: i.e. at three-year intervals, alternately an interim then full review.
- 1.2 The Committee of University Chairs (CUC) published a Higher Education Code of Governance in December 2014 of the key factors that influence governing body effectiveness. The Code includes the expectation that any Effectiveness Review of Council will use assessment against the Code as its starting point (see element 7.11). The Code can be found at: <http://www.universitychairs.ac.uk/wp-content/uploads/2015/02/Code-Final.pdf>

2. INDEPENDENT EFFECTIVENESS REVIEW

- 2.1 An independent consultant, Halpin Partnership, was appointed in accordance with the University's procurement framework, overseen by the University's Head of Procurement; the group assessing tenders and deciding whom to appoint comprised Ruth Foreman (chair), Tim Ford and Mark Ricketts (Director of Process Improvement, former Head of Internal Audit).

3. SCOPE

The scope is set out below:

- 3.1 The review should evaluate compliance with the CUC Code. It should assess the effectiveness of Council and its sub-committees and make recommendations for improvement where necessary and the relationship between Council and Court. It will consider the functioning and composition of the Remuneration Committee which sets remuneration for

senior staff, as raised in recent discussions at University Court and Council, along with other areas of interest from the CUC Code, or raised by stakeholders. It will highlight best practice in the higher education (HE) sector and provide an analysis of how current and proposed arrangements compare with the HE sector.

3.2 The review should focus in particular on the following:

- To review the effectiveness of Council as currently organised and its ability to support the University in the delivery of its Strategy 2016-2021, in particular in relation to the CUC Code of Governance but having regard to good governance practice in other sectors also
- To consider progress on implementation of the actions arising from the review against the CUC Code of Governance in November 2016
- To review the composition and organisation of Council and its Committees
- To review in particular the membership and operation of the Remuneration Committee
- To consult with and obtain the views of members of Council, the Executive, the Students' Union, Trades Unions, Court and other stakeholders as the consultant thinks fit
- To review the effectiveness of the relationship between Council and the Executive and the quality of support and constructive challenge provided.
- To seek the views of Council Committees on their own effectiveness and related issues
- To review the effectiveness of interactions between Council and Senate
- To review the relationship between Council and Court

- To consider the effectiveness of the Key Performance Indicators used and Benchmark institutions
- To evaluate Council and Committee documentation (such as the Statement of Primary Responsibilities, scheme of delegation, committee terms of reference, relevant University Statutes and Ordinances, Council and committee agendas and minutes)
- To reflect on Council's full membership and skillsets, propose the best means of capitalising on these and identify any gaps to be filled through future appointments
- To make recommendations to enhance the effectiveness of Council and its committees.

3.3 In relation to the Remuneration Committee, the review shall consider the membership and workings of the Remuneration Committee of Council including its accountability and transparency and training/ support for its members. It will take appropriate account of:

- guidance provided by the Higher Education Funding Council for England;
- best practice in the HE sector, including guidance from the Committee of University Chairs (Practice Note 1);
- further CUC guidance: A Fair Pay Code is expected to be produced in draft by 31 December 2017 and to be finalised by 31 March 2018;
- the context of the proposed governing body responsibilities outlined in the recent consultation documents published by DfE on behalf of the new OfS. Given that the OfS will exist early in 2018, there should be an emerging picture of its expectations of governing bodies over the coming months;
- input from stakeholders in the various processes, including staff

and student representatives;

- current and emerging best practice and legislation concerning remuneration in the private sector wherever relevant to the HE context.

3.4 The review will also consider any other material issues raised during the consultation with members of Council and other key stakeholders.

4. TIMESCALE

The effectiveness review report will be presented to Council in May 2018.

M G W Humphriss
University Secretary
October 2017

ANNEX 2. METHODOLOGY AND SUMMARY OF PARTICIPATION/ EVIDENCE BASE

The Halpin Partnership's review will help to ensure that the University of Bath is able to fulfil the requirements of the CUC (Committee of University Chairs) Code, emerging guidance from the Office for Students, and the standards of good practice in relation to board leadership and effectiveness, remuneration and accountability as outlined in the Corporate Governance Code.

The starting point for the review will be to fully consider how the University's Council fulfils the seven primary elements of good governance outlined in the CUC Code. Namely;

1. The governing body is unambiguously and collectively accountable for institutional activities, taking all decisions on matters of fundamental concern within its remit.
2. The governing body protects institutional reputation by being assured that clear regulations, policies and procedures that adhere to legislative and regulatory requirements are in place, ethical in nature, and followed.

3. The governing body ensures institutional sustainability by working with the Executive to set the institutional mission and strategy. In addition, it needs to be assured that appropriate steps are being taken to deliver them and that there are effective systems of control and risk management.
4. The governing body receives assurance that academic governance is effective by working with the Senate/Academic Board or equivalent as specified in its governing instruments.
5. The governing body works with the Executive to be assured that effective control and due diligence take place in relation to institutionally significant external activities.
6. The governing body must promote equality and diversity throughout the institution, including in relation to its own operation.
7. The governing body must ensure that governance structures and processes are fit for purpose by referencing them against recognised standards of good practice.

Beyond CUC Code compliance, the Halpin Partnership has designed a review methodology to ensure that our consulting team fully addresses the requirements in the University's tender request.

The following table provides a summary of how each performance against each University objective will be assessed:

Objective	Review Method
To review the effectiveness of Council and its ability to support the University in the delivery of its Strategy 2016-2021	Desk Review Interviews Group Discussions
To consider progress on implementation of the actions arising from the review against the CUC Code of Governance in November 2016	Desk Review Interviews Group Discussions
To review the composition and organisation of Council and its Committees	Desk Review Survey Interviews Group Discussions Benchmarking (against best practice within and outside of the Higher Education sector)
To review in particular the membership and operation of the Remuneration Committee	Desk Review Survey Interviews Group Discussions Benchmarking (against best practice within and outside of the Higher Education sector)
To review the effectiveness of the relationship between Council and the Executive and the quality of support and constructive challenge provided	Survey Interviews Group Discussions
To seek the views of Council Committees on their own effectiveness and related issues	Survey Interviews
To review the effectiveness of interactions between Council and Senate	Interviews Group Discussions
To review the relationship between Council and Court	Interviews
To consider the effectiveness of the Key Performance Indicators used and Benchmark institutions	Desk Review Interviews

To evaluate Council and Committee documentation (such as the Statement of Primary Responsibilities, scheme of delegation, committee terms of reference, relevant University Statutes and Ordinances, Council and committee agendas and minutes)	Desk Review Benchmarking (against best practice within and outside of the sector)
To reflect on Council's full membership and skillsets, propose the best means of capitalising on these and identify any gaps to be filled through future appointments	Desk Review Survey Interviews

The review will also consider any other material issues raised during the consultation with members of Council and other key stakeholders.

An overview of the key components of the review methodology has been provided below. A full breakdown of the methodology and timescales for the review can be found in the formal response to tender.

Desk Review

A detailed review of governance structures, Terms of Reference and procedures will be undertaken and peer-reviewed by the Halpin Partnership consulting team. The team will refer to the CUC Code and to governance best practice within and outside of the sector.

As a firm, the Halpin Partnership offers experience from both within the sector, from those who have done the job of COO, Registrar and University Secretary, but we also have experts in corporate governance who can give the vital external perspective. We will review a large sample of Council and committee papers and minutes early in the service to enable any findings to inform the survey and interview questionnaire design.

The review of committees will pay particular attention to the Remuneration Committee and we will peer-review our findings with a Remuneration expert from outside the sector. We will consider review committee practice sector best practice as outlined in:

- CUC Code
- Draft CUC Fair Pay Code
- Developing DfE/OfS guidance
- HEFCE guidance

The review will consider:

- The membership, Terms of Reference and skills of the committee.
- The independence of members.
- The membership and/or attendance of staff members whose remuneration is considered
- The use of comparative information on the emoluments of employees.
- The consideration of public interest and the safeguarding of public funds alongside the interests of the institution when considering all forms of payment, reward and severance to the staff within its remit.
- The establishment of clear, measurable objectives and the assessment of performance via appraisal.

- reporting lines between Council and the Committee.

The Halpin Partnership will also consider best practice from outside the sector and guidance provided in the FRC UK Corporate Governance Code (Section D and Schedule A) with particular reference to:

- The link of rewards to institutional and individual performance;
- The use of comparative salary data;
- How rewards promote the long-term success of the institution;
- The use of external advisors;
- The separation of roles of Chair of Council and Chair of Remuneration committee.

Survey, Interviews and Group Discussions

The Halpin Partnership will explore stakeholder views on the effectiveness of Council via a consultation process which will include a survey, and a mix of face-to-face interviews and group discussions to ensure the most inclusive feedback from stakeholders across the University. The consultation will explore the following areas:

- The effectiveness of the structure and operations of Council and its committees;
- The quality of board meetings and the discussion and decision-making which takes place within them;
- The governance relationship between Council and senior staff;
- The functional relationship between Council and senior staff;
- The membership of Council and the skillset of its members;
- The recruitment and selection of Council members and committee members;
- How well the university utilises the skills within Council;

- Equality and diversity;
- The membership and operation of Council committees with particular reference to the Remuneration committee;
- The governance and functional relationships between Council, Senate and Court
- Risks in relation to the operation of Council and its committees;
- The administration of Council and its committees;
- Good governance practice at the University and opportunities to communicate that within the sector;
- Opportunities to improve the effectiveness of Council and its committees.

Please note, in our final reporting all interviews will remain confidential and non-attributable.

Survey

We will begin the consultation process with a survey which will be sent to:

- All staff
- All students
- All members of Council
- All members of Court
- All members of Senate

The full findings of this survey will be presented in the final report and early results will help to inform discussions undertaken in interviews/groups. The survey will be designed to provide both quantitative and qualitative feedback. It will cover some of the key issues and allow those who complete it to rate the performance and effectiveness of Council and its committees, and also to provide anonymous comments and feedback via open text response questions.

The survey should be seen as a 'pulse' check which will inform the more detailed interviews/group discussions.

Halpin Partnership will provide a link to the online survey for the University to send to participants. The results will be anonymised and we will only ask for names and contact information for survey participants who wish to participate in a group discussion. We will ensure one response per person by reviewing the IP addresses of the survey responses. All survey data will be deleted within 90 days of the contract end date.

Interviews

Halpin Partnership will invite the following for one-to-one interviews:

- Council members
- Key senior staff members
- Key external stakeholders

The discussions will be conducted by highly experienced Halpin Partnership Fellows and will take place on site at the University of Bath. The Fellows will use a discussion guide to ensure that the interviews are conducted in a consistent manner with key questions addressed. The University will be responsible for organising a private meeting space for the interviews to take place.

We may also organise a small number of group interviews to further increase the sample of views and feedback received during the process.

Some discussions may be undertaken by telephone if this enables key participants to be included, but face-to-face meetings are preferable.

Group Discussions

All those who respond to the survey will have an opportunity to put themselves forward to participate in a group discussion. Our aim will be to provide as many people as possible with the opportunity to participate in a group discussion.

Summary of Participation

We have summarised below the breakdown of participations by various stakeholders at the University of Bath by area of the Review.

Survey

There were 1,392 completed responses to the survey.

- 43% of respondents (603) were students, followed by;
- 31% (428) professional services; and
- 23% (317) academic staff.

Interviews

Halpin Partnership held one-to-one and small group interviews with 49 individuals including the Vice-Chancellor, University Secretary, Chair of Council, Council members, senior academic and professional services staff, Union representatives and the President of the Students' Union.

Discussion Groups

Halpin Partnership held nine group discussions ranging in duration from 30-minutes to 2-hours. These sessions were attended by:

- 1 student;
- 9 members of Court;
- 16 members of professional services staff; and
- 26 members of academic staff.

ANNEX 3. CONSULTANT BIOGRAPHIES



David Allen OBE HonLLD
Fellow

- Former Registrar and Deputy Chief Executive of the University of Exeter.
- Held senior leadership roles in the universities of Birmingham, Nottingham, Southampton and Wales.
- Acknowledged expert on corporate governance and risk management, having acted as Secretary to the Councils of three Russell Group universities.
- He was awarded an OBE in the 2012 New Year's Honours list for services to higher education.

David worked in higher education for 37 years, retiring in 2013 as Registrar and Deputy Chief Executive of the University of Exeter.

David has since built a wide portfolio of activity. He was a Principal Consultant at Perrett Laver, executive search consultants, from 2013-14. He currently chairs the boards of the Higher Education Funding Council for Wales (HEFCW), Exeter College and Torbay Pharmaceuticals. He is Vice-Chair of Torbay and South Devon NHS Foundation Trust.

In addition, he has undertaken consultancy projects for a range of clients including the universities of Kent, Suffolk, Nottingham, Lancaster and the Russell Group. He has been an external adviser on senior appointments to numerous universities, including Cambridge, UCL, LSE, Trinity College, Dublin, Liverpool, Leicester, Luxembourg, Bangor and Swansea.

David is the only person to have chaired both the Association of University Administrators and the Association of Heads of University Administration. He was the inaugural chair of the Russell Group registrars. He is a former Board member of the Leadership Foundation for Higher Education (LFHE) and of the Heart of the South West Local Enterprise Partnership. He jointly chaired the companies responsible for developing and operating Exeter and Falmouth University's shared campus in Penryn, Cornwall. He also chaired a steering group of partners that led to the development of Exeter Science Park.



Hanif Barma

Fellow

- Worked with a wide range of clients including plcs, private companies, subsidiaries, regulators and not-for-profit organisations.
- Strong understanding of board culture and dynamics, board information and board processes.
- Previously, for thirteen years, a founder partner at Independent Audit and prior to this was a director at PwC.
- A Chartered Accountant with an MBA from London Business School.

Hanif's highly regarded work with audit and risk functions enables him to deliver an impressive working knowledge of assurance to boards. His work with boards and committees

brings insight to risk and audit functions of their key stakeholders' needs and expectations.

Hanif is Chair (formerly Audit Committee Chairman) of St Christopher's Fellowship, a leading specialist charity for children and young people in care and on the edge of care. He is also a member of the Audit and Risk Committee at City, University of London. These pro-bono roles have given him practical experience of dealing with 'live' governance issues and helped him ensure the advice he gives his clients is practical and fit-for-purpose. He is a visiting lecturer on corporate governance at Cass Business School and was recently appointed as a member of the Working Group of the Financial Reporting Council's Audit & Assurance Lab.



Susie Hills

Joint CEO

- Susie Hills has over 20 years of Higher Education, not-for-profit and leadership experience.
- A highly experienced consultant, she has led assessments and reviews with clients across the Higher Education sector including the universities of York, Leeds, Lancaster, Magdalene College, Cambridge and Glasgow Caledonian University.
- She has extensive international experience, particularly working with UK HEI stakeholders and donors in the Middle East and Asia.

Susie's career began in the charity sector where she worked for leading NGOs such as ActionAid, Barnardo's and Samaritans. She moved into the corporate sector to manage corporate responsibility for Tesco

Plc, in this role she was responsible for setting and reporting on KPIs for environmental and social impact across the international business. Susie then moved into Higher Education and spent over 7 years in the senior management team at the University of Exeter leading the University's first international campaign, Creating a World Class University Together, raising over £25 million and quadrupling annual philanthropic income.

Susie is a highly experienced consultant who has supported dozens of clients in the arts, charity and education sectors in the UK, Ireland, Middle East and USA to achieve their strategic goals.

Susie writes regularly on leadership and management topics, is a trustee of The Halpin Trust and has worked as a school governor. Susie has a BA (hons) Politics from the University of Durham and a Postgraduate Certificate in Managing Voluntary Organisations from the University of Sheffield.



Frank Toop MBE, FIOD, FCCA
Fellow

- An authority in all governance matters including joint responsibility.
- A change-maker, always seeking new and improved ways of operating.
- Core skills in finance and governance, but also experienced in property/facilities, HR, legal affairs, procurement, internal audit and health and safety.
- Responsible for many change projects demonstrating strong influencing skills and a record of building successful teams and recruiting key staff.

From 2006-15, Frank held the role of University Secretary of City, University of London having previously held roles at the University as Director of Finance and Chief Operating Officer. He retired in 2015

and since then has undertaken a number of consultancy assignments, in particular, for the London School of Hygiene & Tropical Medicine where he has reviewed the governance of Council & Senate and their sub-committees and advised on major changes to the Charter, Statutes and Ordinances.

Frank was a member of the HEFCE Audit Committee 2009-15 and Goldsmiths, University of London Audit Committee 2009-14. He has been Vice-Chair of Orpington College, a governor of Heythrop College, University of London and a Board member of the Bromley NHS Hospital Trust. His term of office as Governor & Vice-Chair of London South East London Colleges and chair of its Finance Committee has just ended.

Frank was awarded an MBE in the Queen's Birthday Honours 2014. He is a qualified accountant and a Fellow of the Institute of Directors.



Peter Smith

Advisor

A leading advisor on public sector pay with detailed knowledge of HE pay structures and academic performance and remuneration.

Peter Smith provides quality assurance of Korn Ferry Hay Group's reward and executive pay work in the public sector. Has attended and advised Remuneration Committees including universities.

He led pay system change, founded on job families and job evaluation (adopted by 30 universities), advised on performance and pay arrangements for professors, and reviewed academic and non-academic career pathways in multiple institutions.

ANNEX 4. SURVEY

Introduction

The survey used by the Halpin Partnership is based on a standard governance consultation template, customised to obtain comments from the wider University body as well as solicit feedback from those who have served as members of Council, Senate or one of the University's committees.

The survey was sent to all staff and all students on Friday 12 January 2018, and closed on Friday 16 February 2018.

There were 1,392 complete responses, and a further 458 partial responses.

The breakdown of responses by relationship to the University was as follows;

What is your relationship to the University of Bath (check all that apply)?

		Response Percent	Response Total
1	Professional Services staff member	30.75%	428
2	Academic staff member	22.77%	317
3	Staff member who attends meetings of Council	0.72%	10
4	Member of Council	1.44%	20
5	Member of Senate	2.08%	29
6	Member of Court	2.80%	39
7	Student	43.32%	603
8	Other (please specify):	4.74%	66
	Answered		1392
	Skipped		0

The Halpin Partnership have not disclosed any comments provided through the survey and the survey results in their entirety will not be shared with the University of Bath.

We have provided below a summary of the key headlines and themes around Culture, Governance, Council and Remuneration identified from the survey questions directed to all respondents. The results from the questions answered by members of Council, Senate or Court membership e.g. meeting structure, preparedness have been omitted as the sample size is less than 39 individuals in each case.

A Note on the Survey Design

Following the launch of the survey, the Halpin Partnership Review Team received six emails from members of the University of Bath staff on the survey design and structure. The primary feedback was around the use of 'the University' in the opening section of the survey, and not referring explicitly to management positions and groups e.g. the Senior Management Team or the Vice-Chancellor.

Another area of feedback was directed to the use of 'staff' and 'students' as too broad terms, with suggestions that the questions should be tailored based on the relationship type of the responder e.g. academic staff, professional services staff, undergraduate student, postgraduate student.

All feedback was noted but the survey was not edited following its launch.

By reviewing the comments of all respondents, as opposed to having multiple datasets by relationship type, the Halpin Partnership believe

we have avoided exercising any bias when grouping comments by theme in our subsequent analysis. Comments made by one University stakeholder group have not been given precedence over any other.

The Halpin Partnership would like to thank all respondents of the survey for providing such thoughtful, considered and detailed comments via the survey. The information provided has been an invaluable facet of the review.

Findings

There were 1,392 completed responses to the survey.

- 43% of respondents (603) were students, followed by 31% (428) professional services and 23% (317) academic staff.
- 51% of respondents disagree or strongly disagree with the statement "the University listens to its staff, students and other key stakeholders."
- 62% of respondents disagree or strongly disagree the statement "the University has an open culture of communication between staff/ students and the University leadership team."
- 53% of respondents either disagree or strongly disagree with the statement that they 'Understand the role of Council on governing the University'
- 46% of respondents either disagree or strongly disagree with the statement that 'the Council's terms of reference are easy to access and understand.'

- 65% of respondents either disagree or strongly disagree with the statement that ‘they understand the different roles of Council, Senate, Court, and the University senior management team.’
- 72% of respondents either disagree or strongly disagree with the statement that ‘communication between Council and staff/ students is effective.’
- 70% of respondents either disagree or strongly disagree with the statement that ‘the University is transparent in communicating its decisions.’
- 53% of respondents either disagree or strongly disagree with the statement that ‘staff and students have an appropriate means of participating in governance at the University.’
- 72% of respondents either disagree or strongly disagree with the statement that ‘the remuneration committee is clear in communicating its decisions.’
- 78% of respondents either disagree or strongly disagree with the statement that ‘the process for setting remuneration at the University is transparent.’
- 84% of respondents agree or strongly agree with the statement that ‘universities should make a full public disclosure on remuneration including all benefits and income received by the Vice-Chancellor from all sources.’
- 82% of respondents agree or strongly agree with the statement that ‘universities should publish a ‘pay-ratio’ showing the ratio of the head of institution’s pay to

the median level of salary at the institution.’

- 54% of respondents agree or strongly agree with the statement that ‘transparency about remuneration needs to be balanced with the individual right to privacy.’

Key Themes

The following themes were identified by the Halpin Partnership team following a review of all of the survey comments and data.

We have summarised these key themes below and made the decision to not disclose representative comments, to ensure the continued confidentiality of the respondents.

University Culture

- Perception of a disconnect between the key issues affecting students and senior management decision making.
- Perception of student participation in governance at the University as superficial.
- Perceived absence of accountability by senior management to the student body.
- The issue of students receiving ‘value for money’.
- An absence of opportunities for staff to influence.
- Wider culture within the University of staff discord (not limited to issues around remuneration and governance).
- Inequality across academic and professional service departments - pay and culture.
- Lack of diversity in the Senior Management Team and the impact on organisational behaviour.
- Communication - issues of

transparency and trust.

- Communication – ineffective internal communications.
- The failure of the wider Senior Management Team in governance.
- A culture of centralised decision making and the need to devolve power.
- The Vice-Chancellor and SMT as ‘sovereign’.
- An ‘outdated’ style of governance.

Governance and University Council

- Perception of poor judgement and disconnect from wider University issues.
- Visibility and availability of Council.
- Need to educate staff and students about the role and remit of Council.
- Communication of governance issues across the University as lacking.
- Representation and diversity of Council.
- Chair of Council - detachment from the wider University and poor communication.
- The role of the Vice-Chancellors Group – power and influence.

Remuneration

- Transparency and the right to privacy (for and against).
- Professorial pay – perception of abuse of the system and need for reform.
- Vice-Chancellor Pay – percentage pay award and disparity as core issues.

CHARTS

Culture

To what extent do you agree with the following statements;

The University values its staff and students.		Response Percent	Response Total
1	Unable to comment/do not know	1.7%	23
2	Strongly agree	11.2%	155
3	Agree	34.0%	470
4	Neither agree nor disagree	17.2%	238
5	Disagree	26.9%	371
6	Strongly disagree	9.0%	124
Answered			1381

The University is supportive of its staff and students.		Response Percent	Response Total
1	Unable to comment/do not know	2.1%	29
2	Strongly agree	12.0%	165
3	Agree	37.2%	513
4	Neither agree nor disagree	20.0%	276
5	Disagree	21.8%	301
6	Strongly disagree	7.0%	96
Answered			1380

The University listens to its staff, students and other key stakeholders.		Response Percent	Response Total
1	Unable to comment/do not know	3.8%	52
2	Strongly agree	5.8%	80
3	Agree	19.6%	270
4	Neither agree nor disagree	19.8%	273
5	Disagree	34.4%	475
6	Strongly disagree	16.7%	230
Answered			1380

The University promotes equal opportunities.		Response Percent	Response Total
1	Unable to comment/do not know	4.6%	64
2	Strongly agree	17.5%	242
3	Agree	42.5%	588
4	Neither agree nor disagree	19.6%	271
5	Disagree	11.4%	157
6	Strongly disagree	4.3%	60
Answered			1382

The University promotes diversity.		Response Percent	Response Total
1	Unable to comment/do not know	4.3%	60
2	Strongly agree	19.4%	268
3	Agree	40.5%	559
4	Neither agree nor disagree	21.7%	299
5	Disagree	10.4%	143
6	Strongly disagree	3.8%	52
Answered			1381

The University promotes equal opportunities.		Response Percent	Response Total
1	Unable to comment/do not know	1.2%	16
2	Strongly agree	26.0%	358
3	Agree	37.4%	514
4	Neither agree nor disagree	19.6%	270
5	Disagree	10.5%	144
6	Strongly disagree	5.4%	74
Answered			1376

The University has an open culture of communication between staff/students and the University leadership team.		Response Percent	Response Total
1	Unable to comment/do not know	3.7%	51
2	Strongly agree	4.7%	65
3	Agree	14.3%	197
4	Neither agree nor disagree	14.9%	205
5	Disagree	31.9%	440
6	Strongly disagree	30.5%	421
Answered			1379

Staff and students are encouraged by the University to make suggestions for change and improvement.		Response Percent	Response Total
1	Unable to comment/do not know	2.2%	30
2	Strongly agree	8.8%	122
3	Agree	25.7%	354
4	Neither agree nor disagree	21.2%	292
5	Disagree	26.0%	359
6	Strongly disagree	16.1%	222
Answered			1379

Council

To what extent do you agree with the following statements;

I understand the role of Council in governing the University.		Response Percent	Response Total
1	Unable to comment/do not know	2.6%	36
2	Strongly agree	7.9%	109
3	Agree	25.0%	347
4	Neither agree nor disagree	11.3%	156
5	Disagree	36.3%	503
6	Strongly disagree	17.0%	235
Answered			1386

Council's terms of reference are easy to access and understand.			Response Percent	Response Total
1	Unable to comment/do not know		20.1%	279
2	Strongly agree		3.2%	45
3	Agree		10.2%	141
4	Neither agree nor disagree		20.8%	288
5	Disagree		31.5%	436
6	Strongly disagree		14.2%	197
			Answered	1386

I understand the different roles of Council, Senate, Court, and the University senior management team.			Response Percent	Response Total
1	Unable to comment/do not know		4.5%	63
2	Strongly agree		5.9%	82
3	Agree		16.1%	223
4	Neither agree nor disagree		8.5%	118
5	Disagree		38.8%	538
6	Strongly disagree		26.1%	362
			Answered	1386

Council upholds and demonstrates University values.			Response Percent	Response Total
1	Unable to comment/do not know		25.0%	346
2	Strongly agree		1.9%	27
3	Agree		5.4%	75
4	Neither agree nor disagree		23.5%	325
5	Disagree		23.8%	330
6	Strongly disagree		20.4%	282
			Answered	1385

Council promotes and defends equal opportunities and diversity.			Response Percent	Response Total
1	Unable to comment/do not know		30.1%	417
2	Strongly agree		2.7%	38
3	Agree		12.6%	174
4	Neither agree nor disagree		28.6%	396
5	Disagree		15.2%	211
6	Strongly disagree		10.8%	150
			Answered	1376

Council acts strategically to realise University goals.		Response Percent	Response Total
1	Unable to comment/do not know	29.0%	400
2	Strongly agree	4.2%	58
3	Agree	18.1%	249
4	Neither agree nor disagree	27.1%	374
5	Disagree	13.1%	180
6	Strongly disagree	8.6%	118
Answered			1379

Communication between Council and staff/students is effective.		Response Percent	Response Total
1	Unable to comment/do not know	10.5%	145
2	Strongly agree	0.8%	11
3	Agree	4.2%	58
4	Neither agree nor disagree	12.4%	172
5	Disagree	37.4%	518
6	Strongly disagree	34.7%	481
Answered			1385

The University is transparent in communicating its decisions.		Response Percent	Response Total
1	Unable to comment/do not know	3.7%	51
2	Strongly agree	1.5%	21
3	Agree	10.6%	146
4	Neither agree nor disagree	14.6%	202
5	Disagree	33.1%	458
6	Strongly disagree	36.5%	505
Answered			1383

Staff and students have an appropriate means of participating in governance at the University.		Response Percent	Response Total
1	Unable to comment/do not know	9.0%	124
2	Strongly agree	3.0%	42
3	Agree	14.3%	198
4	Neither agree nor disagree	20.5%	283
5	Disagree	27.7%	383
6	Strongly disagree	25.4%	351
Answered			1381

Members of Council have the right mix of skills and experience to fulfil their responsibilities and duties.		Response Percent	Response Total
1	Unable to comment/do not know	37.4%	518
2	Strongly agree	1.9%	27
3	Agree	5.9%	82
4	Neither agree nor disagree	23.1%	320
5	Disagree	12.8%	177
6	Strongly disagree	18.9%	262
Answered			1386

Remuneration

To what extent do you agree with the following statements;

I understand the role of the remuneration committee at the University.		Response Percent	Response Total
1	Unable to comment/do not know	4.8%	67
2	Strongly agree	10.8%	149
3	Agree	41.6%	575
4	Neither agree nor disagree	8.6%	119
5	Disagree	20.5%	284
6	Strongly disagree	13.6%	188
Answered			1385

The remuneration committee is clear in communicating its decisions.		Response Percent	Response Total
1	Unable to comment/do not know	10.2%	141
2	Strongly agree	0.7%	9
3	Agree	5.8%	80
4	Neither agree nor disagree	11.1%	153
5	Disagree	33.3%	460
6	Strongly disagree	39.0%	538
Answered			1381

The process for setting remuneration at the University is transparent.			Response Percent	Response Total
1	Unable to comment/do not know		11.1%	152
2	Strongly agree		0.4%	6
3	Agree		2.7%	37
4	Neither agree nor disagree		7.5%	103
5	Disagree		28.6%	392
6	Strongly disagree		49.7%	682
Answered				1372

Universities should make a full public disclosure on remuneration including all benefits and income received by the Vice-Chancellor from all sources.			Response Percent	Response Total
1	Unable to comment/do not know		6.3%	87
2	Strongly agree		67.9%	935
3	Agree		16.1%	222
4	Neither agree nor disagree		4.9%	67
5	Disagree		2.6%	36
6	Strongly disagree		2.2%	31
Answered				1378

Universities should publish a 'pay-ratio' showing the ratio of the head of institution's pay to the median level of salary at the institution.			Response Percent	Response Total
1	Unable to comment/do not know		5.9%	81
2	Strongly agree		66.1%	911
3	Agree		16.0%	221
4	Neither agree nor disagree		6.0%	83
5	Disagree		3.5%	48
6	Strongly disagree		2.5%	34
Answered				1378

Transparency about remuneration needs to be balanced with the individual right to privacy.			Response Percent	Response Total
1	Unable to comment/do not know		3.9%	54
2	Strongly agree		22.2%	307
3	Agree		31.4%	434
4	Neither agree nor disagree		12.6%	175
5	Disagree		18.6%	258
6	Strongly disagree		11.3%	156
Answered				1384

ANNEX 6. COMPLIANCE WITH CUC CODE

The Code sets out (a) the requirements that must be met or exceeded to comply with the primary elements of Code and (b) the activities that should normally be conducted to achieve the primary elements of the Code.

We have reviewed the University's current and historical compliance with the above Code and have concluded that the University is substantially compliant.

We have outlined a number of areas where improvements could be made below.

Compliance Improvements

1. The governing body is unambiguously and collectively accountable for institutional activities, taking all final decisions on matters of fundamental concern within its remit.

- In the interviews, it is sometimes questionable whether Council

operates in such a way that members ultimately accept "individual and collective responsibility for the affairs of the Institution" (1.3).

- On 1.4, the interviews show that staff members felt they were less regarded than students or lay members. Some lay members have commented on the difficulty of open conversations and good debates when staff members are making small points or being unnecessarily defensive. Reserved Business should be ended (see below).
- On the "should" there is a very narrow view of "conduct affairs in an open and transparent manner" – the examples quoted by the University do not always meet this in our view. The delegation framework is only available inside Bath and is not prominent on the University website.
- The Statement of Primary Responsibilities was approved in 2005 and has been reviewed

but could be updated in line with Annex A of the CUC Code of Governance.

2. The governing body protects institutional reputation by being assured that clear regulations, policies and procedures that adhere to legislative and regulatory requirements are in place, ethical in nature, and followed.

- Complies although the view of HEFCE that reputational damage resulted from recent events should be noted.

Note: 2.3 was missed from the Bath report provided and has been added in by the Halpin team.

- Declarations seem to be all there. Improvements to be considered might be:
 - Publishing declarations on the University website (currently a paper file).
 - All trusteeships, remunerated directorships and remunerated employments must be declared but all others are left to the individual's view as to whether there is a conflict. It may be better just to declare all.
- Declarations item on the agenda.

3. The governing body ensures institutional sustainability by working with the Executive to set the institutional mission and strategy. In addition, it needs to be assured that appropriate steps are being taken to deliver them and that there are effective systems of control and risk management.

- Reporting from RemCo could have been more transparent

- Reviewing delegated authority every 3 years should be reconsidered – it may be worth reviewing more often (3.6).

4. The governing body receives assurance that academic governance is effective by working with the Senate/ Academic Board or equivalent as specified in its governing instruments.

- While the Senate subcommittees appear to work effectively and the paperwork received by Council is appropriate, the lay members do not appear to challenge the annual provider review and do not appear to have an adequate understanding of the role of Senate – if anything they are too respecting of Senate's independence. The academic staff membership of Council helps the giving of the academic assurance to HEFCE but it could be improved significantly.
- Very great reliance is placed on the Senate subcommittees and it would be sensible to have regular external and internal effectiveness reviews to ensure that reliance is well-placed. Senate business is short and effectively nods things through. Senate is reviewed internally every 3 years but could merit an external review.

5. The governing body works with the Executive to be assured that effective control and due diligence take place in relation to institutionally significant external activities.

- Complies.

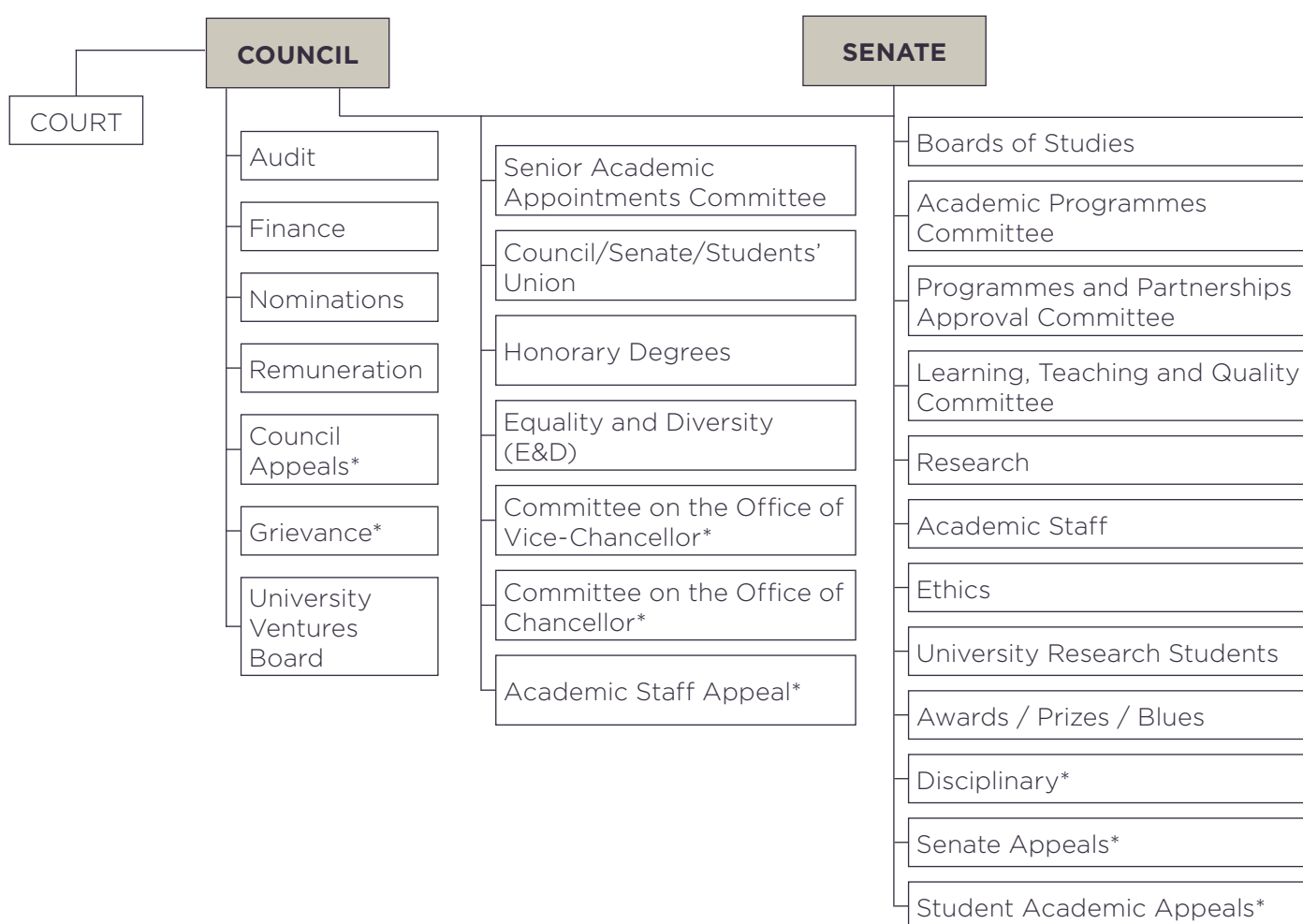
6. The governing body must promote equality and diversity throughout the institution, including in relation to its own operation.

- Complies.

7. The governing body must ensure that governance structures and processes are fit for purpose by referencing them against recognised standards of good practice.

- The role descriptors on the Council web pages appear as if they could better clarify the responsibilities of members and need updating. However, there is a useful requirement to sign-off annually that each member will act in accordance with the University's Guidance on Corporate Governance - (which clearly defines responsibilities), Nolan Principles etc. as set out in CUC Code.

ANNEX 7. COUNCIL/SENATE GOVERNANCE STRUCTURE



* Convened only when required

Source: University of Bath

ANNEX 8. AUDIT CHECKLIST OF GOOD PRACTICE

This checklist was provided to the RemCo committee by our Remuneration Advisor, Peter Smith, Korn Ferry. It was used as an audit checklist of good practice at the RemCo meeting of 16 April 2018.

Issue	
1. Remit	<ul style="list-style-type: none">• States clearly the role of the Committee and how it should be constituted• Refers at least to duties in relation to the level and composition of remuneration - including benefits and contractual terms - of the Head of Institution and the executive team and themes which might affect that, particularly the performance of the institution, its Head and the executive team• Refers to other topics or fits clearly alongside others in the governance structure who are responsible for the:<ul style="list-style-type: none">- Succession and resilience in the top structure- The remuneration of professors- The remuneration of senior managers- Pay decisions over a stated threshold- Remuneration for other staff groups throughout the institution- Equal and gender pay
2. Membership	<ul style="list-style-type: none">• Is chaired by someone other than the chair of the governing body• Has members who are independent and do not have conflicts of interest• Comprises individuals with relevant understanding of the sector and of remuneration

3. Proceedings	<ul style="list-style-type: none"> • Meets frequently enough to maintain consistency of approach and to cover all relevant business • Considers issues and evidence in a logical flow through the year, matched to the stated remit • Draws on a range of evidence from the institution and the market
4. Policies	<ul style="list-style-type: none"> • Are in place which relate to all aspects of the remit • Are clear and thorough in their references to: <ul style="list-style-type: none"> - The basis on which remuneration is set and reviewed for the remit groups - How remuneration is structured - Benchmarks to be used - The relationship between remuneration and collective and individual performance - The relationship between remuneration and risk (flight risk, succession, reputational etc.) - How failing performance will be managed • Have a coherent and clearly explained relationship to remuneration policies for other staff
5. Practices	<ul style="list-style-type: none"> • Are demonstrably based on stated policies • Are debated in Committee, with reasons for the decisions recorded, and can be justified • Take account of independent and expert advice
6. Relationship to other parts of governance	<ul style="list-style-type: none"> • The work of the Remuneration Committee complements that of other decision-making groups • The conclusions of the Remuneration Committee are appropriately reported to the Governing Body • Where decisions relevant to remuneration are taken by the Governing Body or by delegation from the Committee, they are consistent with stated policy and best practice in remuneration
7. Review	<ul style="list-style-type: none"> • Reviews own effectiveness from time to time • Makes changes to membership, data sources, advice etc. based on those reviews • Is flexible enough to take urgent decisions outside the normal meeting cycle
8. Disclosure	<ul style="list-style-type: none"> • Provides a clear annual report which explains to stakeholders and the public: <ul style="list-style-type: none"> - The context of the sector, the institution and the market - The policies and the reasons for them; - The justification for current practices, including changes in remuneration levels or composition; - How decisions for remit groups meet the need for fairness and consistency • Monitors the relationship between senior pay and remuneration of other staff • Is open and clear in other reporting responsibilities as part of the remit, such as equal and gender pay.

Framework for Reviewing Remuneration Committees

Note: Under item 5, practices will include consideration of and decisions on:

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| <ul style="list-style-type: none">• External relativities, drawing on a relevant and justifiable range of sources and markets• Internal relativities, taking account of relativities within the remit group, between them and senior staff and between them and staff generally• Contractual terms• Pay on appointment• Salary reviews and adjustments• Bonus payments | <ul style="list-style-type: none">• Additional benefits or payments for benefits beyond the standard pension and holidays• Cash payment in lieu of pension• Approval of external appointments and any associated remuneration• Performance, including managing poor performance• Equal and gender pay• Severance |
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ANNEX 9. REPORT ON PROGRESS AGAINST HEFCE RECOMMENDATIONS

We deal with these issues in one section since they are inter-related. The HEFCE recommendations are set out below, together with our comments:

Recommendation 1: Before or at the next meeting of Court, the university should respond to the view of HEFCE that the vote at the Court meeting on 23 February 2017 was both poorly handled and flawed, and that this has damaged the reputation of the university. In the interests of transparency, the university's response should be fully minuted if given at the next Court meeting or presented as a written addendum to the minutes, if given before the meeting.

Halpin Comment: Implemented and minuted in full at the January 2018 Court meeting.

Recommendation 2: The Standing Orders for Court being prepared at present for approval in February 2018 should be subject to prior consultation with Court members as planned and include sections dealing with:

- a. The declaration and handling of conflicts of interest, particularly in connection with any voting procedures.
- b. The handling of any representations that Court members wish to make to the governing body.
- c. The ability of Court to legitimately query or challenge any aspect of the annual accounts.
- d. Communications between the university and Court members, noting that these could be described either separately from or within the standing orders. This section should make clear how communications should operate between the university and Court members and through whom, such that these procedures are seen to work independently of those in place for Council or any other governance body and are conducted in a manner appropriate to the role of Court.

Halpin Comment: Standing Orders including these matters were approved at Court in January following lengthy debate and amendment.

Recommendation 3: The University's plan to seek the views of Court members in the forthcoming review of the effectiveness of the University Council should become incorporated as standard practice for consulting with a wide range of stakeholders in all future periodic reviews of Council effectiveness.

Halpin Comment: We wrote to Court members and invited them to take part in our survey. We interviewed a number of Court members either individually or in group discussions. We observed a meeting of Court and will, if invited, attend one arranged in June. Members of Court are important stakeholders and we agree the importance of their views being sought.

Recommendation 4: The forthcoming review of the effectiveness of the Remuneration Committee should consider the recommendations in this report and the good practice guidance referred to in this report.

Halpin Comment: We have done so; see remuneration section above.

Recommendation 5: Subject to timing, the forthcoming review of the effectiveness of the Remuneration Committee should consider the emerging or final findings from the CUC review of remuneration committee practice. CUC is expected to issue its interim findings in January 2018 and final guidance in April 2018. If this is not possible, the university should take account of the outcomes of the CUC's work at the next most appropriate opportunity.

Halpin Comment: We took full account of the draft guidance and the University has agreed to implement it when finalised. In the meantime, it has been submitted to the Remuneration

Committee.

Recommendation 6: The work of the university's Remuneration Committee should become much more transparent, with significantly greater explanation of its processes and decisions, both to Council and more widely. This greater transparency should be reflected in the minutes and in the annual accounts.

Halpin Comment: This has been agreed by the University and our recommendations are designed to assist the process.

Recommendation 7: The university should consider how to implement the requirement in Section 7.11 of the CUC Code of Governance that the effectiveness of the committees that report to the governing body must be regularly, fully and robustly reviewed. This should be assumed to apply to all governance bodies that have a reporting relationship with Council, including the audit and finance committees, as well as the remuneration committee.

Halpin Comment: We have reviewed all committees of Council as detailed above and have also considered Senate and Court.

Recommendation 8: Separately from the above recommendation, the effectiveness of the university's Remuneration Committee should be routinely included in Council's own review of effectiveness and not as a one-off requirement as part of the 2017-18 review.

Halpin Comment: Agreed by the university.

Recommendation 9: The university should consider whether, rather than the Chair of Council being the Chair of the Remuneration Committee,

it would be better for the role to be taken by a different member of the governing body who has a more demonstrably independent relationship with the Vice-Chancellor. The chair of Council should, however, remain a member of the committee.

Halpin Comment: Implemented by the university. In line with emerging CUC guidance the Vice-Chancellor has stood down from the Committee.

Recommendation 10: The university should consider if operating with just one meeting each year is sufficient for the Remuneration Committee to carry out all of its work effectively. A second meeting provides the opportunity to consider such issues as remuneration policy, setting performance measures, considering interim, reputational and other contextual issues, reviewing its own performance and so forth.

Halpin Comment: The University now requires the Committee to meet at least twice a year. It has already met twice this year and has two more meetings planned in July and September. It has begun the process of working through the above and other issues.

Recommendation 11: Without undermining the expertise required to carry out its work, the university should consider if the diversity of the membership of its remuneration committee meets its requirements. As part of this, consideration should be given to opening up committee membership to staff and/or student representatives (drawn from Council or elsewhere) for transparency reasons and to ensure stakeholder challenge is added to the process. Training and/or induction may be of particular value in such circumstances.

If after consideration Council decides

not to change the membership of the Remuneration Committee, then it should make clear why this is felt to be inappropriate.

Halpin Comment: We have recommended that a staff and student member is added from the membership of Council. We have also recommended the co-option of an external member and an invitation to an Audit Committee member to observe.

Recommendation 12: The university should consider if it should establish a publicly available senior staff remuneration policy, incorporating consideration of the following, as appropriate to the university's circumstances:

- a. A recognition of stakeholder (especially staff and student) interest in senior pay levels and the impact this has on the reputation of the university
- b. How independent scrutiny is brought to bear in the appraisal and pay setting process
- c. A recognition of the charitable status of the university and the need not to pay more than is necessary to secure the services of the right people
- d. A recognition of the need to recruit, motivate and retain senior staff.
- e. Adoption and publication of a Vice-Chancellor/senior staff to median pay ratio and/or a proportionate pay element, so that there is a clearer understanding of the links between senior pay and all staff pay.
- f. The use or non-use of performance pay and other benefits such as loans, cars, health insurance and accommodation.
- g. How performance is assessed, including whether the process uses objectives, targets, key

performance indicators, criteria or other measures.

- h. How performance assessment differentiates between individual and university performance, and how this is linked to the long-term success of the university
- i. How any involvement with organisations associated with the university (for instance, group companies) are dealt with for pay purposes.
- j. The use of benchmarking information and the periodic use of different benchmarks to help test the appropriateness of remuneration levels.
- k. The process to be adopted in pay setting.

Halpin Comment: The HEFCE report has been submitted to RemCo and we would expect these factors and others to be incorporated in emerging publicly available senior staff remuneration policy.

Recommendation 13: The University Council should consider if it might periodically benefit from professional advice on its senior staff remuneration processes and decisions from an external and independent remuneration consultant.

Halpin Comment: This is one of our proposals. Such a consultant should be competitively procured. We emphasise this in order to avoid any conflict, given that we have retained such an expert for this project.

ANNEX 10. COURT RESOLUTIONS PENDING THE HALPIN REVIEW

Court passed a series of resolutions in January which were presented to Council in February. Rather than note them, comment or decide on them, Council noted them but decided to take no further action, pending the outcome of our review. They are as follows:

- An expression of lack of confidence in the Vice-Chancellor, Chair of Council and RemCo, requesting that they step down immediately and that power to set executive pay should be returned to Council as a whole.

Halpin Comment: The Vice-Chancellor will step down from that role on 31 August and it is expected that the Chair will do so by the end of December. There have been significant changes in RemCo membership with more to come if our recommendations are approved. We respectfully disagree that executive pay should return to Council other than for its overall responsibility for the reasons we have set out above. We do believe, however, that our proposals will result in greater transparency and oversight by

Council and that Council should set the policies and parameters within which RemCo operates.

- The failings of governance identified in the HEFCE report will not be remedied by a review of “effectiveness” of existing arrangements but only by root and branch reform of the governance structures, implementing open, transparent and democratic arrangements.

Halpin Comment: We do not believe that the governance model of chartered universities is broken and we believe our proposals will go some way to meeting Court’s concerns. We emphasise the importance of culture as well as compliance as set out below. Beyond our remit it is of course a matter for the University as a whole to decide if it wishes to go further and completely break the mould. In our opinion, for what it is worth, Court might consider awaiting the implementation of our reforms, cultural change and the arrival of a new Chair, a new Vice-Chancellor and a Head of Governance.

- Court particularly welcomes recommendation 11 [of the HEFCE report] and requests that Council include on the Remuneration Committee reserved spaces for staff and students, to be elected by staff and students of the University respectively.

Halpin Comment: We recommend staff and student membership of RemCo is drawn from elected staff and students on Council.

- Court requests that delegated powers be returned from the Remuneration Committee to Council, such that recommendations from the Committee are subject to approval by the governing body.

Halpin Comment: We discuss this in the remuneration section. While we recommend more Council oversight, we believe it would be difficult for a body the size of Council to consider recommendations on specific remuneration for individuals. A number of Council members would need to leave the room and the Chair of Council could not Chair the item. We believe it is preferable for Council to set clear expectations and parameters and then delegate to a reformed RemCo, with specific expertise and advice, the detailed determinations, reverting to council in the event of recommendations beyond set parameters.

- A number of resolutions then follow relating to the terms of departure of the Vice-Chancellor.

Halpin Comment: HEFCE decided not to take any further action and the Chair of Council reported the contractual constraints to Court in general terms. This is a contractual matter out of our remit, but we do note that RemCo wishes to avoid as far as possible contractual

entitlements for the new Vice-Chancellor which are inconsistent with the general entitlements for academic staff.

- Court requests that Council also publish the ratio of emoluments for the highest paid member of staff to the full-time equivalent amount of the lowest paid member of staff. Emoluments should include costs associated with providing residence and/or the market rate for rents that would be due.

Halpin Comment: We have no objection to the ratio being published, but for the reasons we set out above we think the emerging CUC/OfS guidance should be followed i.e. Vice-Chancellor remuneration should be published as a multiplier of median pay of all staff and be kept within a multiplier not exceeding 4-8 with 6 being a reasonable aiming point.

- Court welcomes recommendation 12(e) of the HEFCE report and believes that all staff deserve to receive a wage they can afford to live on and asks Council to commit to the University becoming a Living Wage employer by seeking accreditation to the Living Wage Foundation within the next 12 months.

Halpin Comment: This is out of scope for this review, but we note the decision to pay the voluntary living wage from 1 May 2018 and to seek formal living wage employer accreditation from the Living Wage Foundation.



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