Higher Education Governance (Scotland) Act 2016

2016 asp 15

PART 1

GOVERNANCE ARRANGEMENTS

CHAPTER 1

GOVERNING BODIES

Senior lay member of governing body

1 Position of senior lay member

(1) The governing body of a higher education institution is to include the position of senior lay member (however the institution chooses to name the position).

(2) The senior lay member of the governing body of a higher education institution has—

(a) the duty to preside at meetings of the governing body,

(b) a deliberative and a casting vote at such meetings,

(c) responsibility for—

(i) the leadership and effectiveness of the governing body,

(ii) ensuring that there is an appropriate balance of authority between the governing body and the principal of the institution.

(3) Another member of the governing body of a higher education institution may be selected by the governing body to exercise any of the functions mentioned in subsection (2) in the absence of the senior lay member or while the position is vacant.

(4) Subsections (2) and (3) are subject to section 2.

Commencement Information

I1 S. 1 in force at 30.12.2016 by S.S.I. 2016/382, **reg. 2(1)**

2 Interaction with role of rector

(1) Subsection (2) applies in the case of a higher education institution at which there is a rector who has functions under section 4 of the 1858 Act and section 5(5) of the 1889 Act (each of which contains provision relating to the role of the rector at an older university).

(2) Paragraphs (a) and (b) of subsection (2) of section 1 and subsection (3) of that section so far as relating to those paragraphs are of no effect in relation to the institution (but see section 5(5) of the 1889 Act (which also contains provision about who is to preside at certain meetings in the absence of the rector)).

(3) In this section—

"the 1858 Act" means the Universities (Scotland) Act 1858,

"the 1889 Act" means the Universities (Scotland) Act 1889.

Commencement Information

I2 S. 2 in force at 30.12.2016 by S.S.I. 2016/382, **reg. 2(1)**

3 Relevant criteria and process

(1) Whenever a vacancy arises in the position of senior lay member of the governing body of a higher education institution, the governing body must delegate to a committee the responsibility of—

(a) devising the relevant criteria with respect to the position,

(b) ensuring the efficiency and fairness of the process for filling the position.

(2) The relevant criteria include the availability, skills and knowledge considered by the committee to be necessary or desirable to—

(a) exercise the functions of the senior lay member,

(b) command the trust and respect of—

(i) the other members of the governing body,

(ii) the academic board of the institution,

(iii) the staff and students of the institution.

(3) Each time the process for filling the position is undertaken, the committee must make publically available a report indicating by way of overview (and without disclosing individual identities or confidential information)—

(a) the number of applicants for the position,

(b) so far as consent to disclosure has been received by the committee from the applicants, the characteristics listed in section 149(7) of the Equality Act 2010 with respect to—

(i) the applicants,

(ii) the applicants invited to an interview for the position,

(iii) the applicants entitled to stand as candidates in an election for the position following such an interview.

(4) The membership of the committee must include at least one person from each of these categories—

(a) the staff of the institution,

(b) the students of the institution.

(5) Rules made by the governing body of the institution may contain provision about the process for filling the position of senior lay member of the governing body (subject to sections 4 to 8).

Commencement Information

I3 S. 3 in force at 30.6.2017 by S.S.I. 2016/382, **reg. 2(2)** (with reg. 3)

4 Advertisement and application

(1) A current or upcoming vacancy in the position of senior lay member of the governing body of a higher education institution is to be advertised widely by the governing body, in a manner suitable for bringing the vacancy to the attention of a broad range of persons.

(2) The committee mentioned in section 3(1) is to ensure that the advertisement—

(a) sets out the functions exercisable by the senior lay member of the governing body under section 1(2),

(b) summarises the relevant criteria with respect to the position and states how more information about the relevant criteria can be obtained,

(c) explains—

(i) the process for filling the position,

(ii) how the application form in relation to the position can be obtained,

(iii) that reimbursement is offered of expenses incurred in connection with attending an interview or campaigning in an election for the position,

(iv) that remuneration and allowances are available in connection with the holding of the position.

Commencement Information

I4 S. 4 in force at 30.6.2017 by S.S.I. 2016/382, **reg. 2(2)** (with reg. 3)

5 Interview of certain applicants

(1) If—

(a) an application for the position of senior lay member of the governing body of a higher education institution is made in the correct form in response to an advertisement under section 4(1), and

(b) the application appears to the committee mentioned in section 3(1) to show that the applicant meets the relevant criteria with respect to the position,

the applicant must be invited to an interview conducted by the committee.

(2) If the applicant satisfies the committee at such an interview that the applicant meets the relevant criteria, the applicant is entitled to stand as a candidate in an election for the position.

(3) The governing body of the institution is to offer every applicant for the position reimbursement of reasonable expenses that are incurred by the applicant in attending such an interview.

Commencement Information

I5 S. 5 in force at 30.6.2017 by S.S.I. 2016/382, **reg. 2(2)** (with regs. 3, 4)

6 When election to be arranged

(1) An election for the position of senior lay member of the governing body of a higher education institution must be arranged by the governing body if more than one applicant—

(a) is entitled under section 5(2) to stand as a candidate in the election, and

(b) confirms an intention to stand as a candidate in the election.

(2) If the number of candidates in the election subsequently falls to below two—

(a) the election is to be postponed until the election can be held with more than one candidate standing (and the vacancy must be advertised under section 4(1) again),

(b) the remaining candidate (if there is one) continues to be entitled to stand as a candidate in the election.

(3) The governing body of the institution is to offer every candidate in the election reimbursement of reasonable expenses that are incurred by the candidate in campaigning in the election (up to the limit per candidate that is fixed by the governing body).

Commencement Information

I6 S. 6 in force at 30.6.2017 by S.S.I. 2016/382, **reg. 2(2)** (with reg. 3)

7 Election franchise and result

(1) These persons are entitled to vote in an election under section 6 for the position of senior lay member of the governing body of a higher education institution—

(a) the members of the governing body,

(b) the staff of the institution,

(c) the students of the institution.

(2) No individual is entitled to cast more than one vote in the election.

(3) Each vote cast in the election carries equal weight.

(4) The election is won by the candidate who secures a simple majority of the total number of votes cast.

(5) In the event of a tie between two or more candidates for the highest number of votes cast, the election is won by whichever of them is deemed to be the winner in accordance with rules made by the governing body of the institution.

Commencement Information

I7 S. 7 in force at 30.6.2017 by S.S.I. 2016/382, **reg. 2(2)** (with reg. 3)

8 Appointment and tenure

(1) The winning candidate in an election under section 6 for the position of senior lay member of the governing body of a higher education institution is to be appointed to the position by the governing body.

(2) An appointment to the position is for the period specified in rules made by the governing body, but the period of such an appointment may be extended in accordance with the rules.

(3) The position cannot be filled otherwise than by an appointment made by virtue of this section.

Commencement Information

I8 S. 8 in force at 30.6.2017 by S.S.I. 2016/382, **reg. 2(2)** (with reg. 3)

9 Remuneration and conditions

(1) The governing body of a higher education institution is, on the request of a person appointed to the position of senior lay member of the governing body, to pay such remuneration and allowances to the person as the governing body considers to be reasonable (which are to be commensurate with the nature and amount of the work done by the person in the capacity as senior lay member).

(2) A person appointed to the position may not be a student of, or one of the staff of, the institution during the period of the person's appointment.

(3) The holding by a person of the position is in all other respects subject to such terms and conditions as are specified by the governing body.

Commencement Information

I9 S. 9 in force at 30.6.2017 by S.S.I. 2016/382, **reg. 2(2)** (with reg. 3)

Changes to legislation:
There are currently no known outstanding effects for the Higher Education Governance (Scotland) Act 2016, Cross Heading: Senior lay member of governing body.