

WORKING GROUP IN RESPONSE TO THE SFC REVIEW OF THE PAYMENT TO THE
FORMER PRINCIPAL

Report and Recommendations to Court

1) INTRODUCTION

- 1.1 In February 2020 the Scottish Funding Council (SFC) published the findings of its Review of the Payment to the Former Principal. The University accepted the SFC Report's main findings and was required to undertake an externally-facilitated review of its governance procedures and culture (and to provide assurance to SFC about the actions and outcomes from that review). In addition to that externally-facilitated review of governance, the University Court established a short-life Working Group to consider specifically the issues raised by the SFC Report.
- 1.2 This document sets out the Working Group's ("the Group") findings and recommendations for consideration by Court. These are structured in response to each of the three parts of the Group's terms of reference at section 6 below. Several of the recommendations will, by their nature, also have relevance and cross-over with the ongoing wider review of governance. The Group has, in the course of its work, been cognisant of this and hopes that its report and recommendations will be helpful in informing that wider piece of work and therefore further contribute to providing the assurance that the Scottish Funding Council has requested and that the University community should receive.
- 1.3 The Group wishes to thank all those who contributed and assisted it in the course of its work.

2) WORKING GROUP TERMS OF REFERENCE AS AGREED BY THE COURT

- Identify and review the specific issues raised by the SFC report and make recommendations to Court accordingly.
- Consider the suggestion by SFC that the University may wish to pay back a further amount either to SFC or to a 'learning-related' activity and make recommendations to Court accordingly.
- Consider whether the University should ask the former Principal to repay some, or all, of the payments made to him in this regard and make recommendations to Court accordingly.

3) WORKING GROUP COMPOSITION AND MEMBERSHIP

- Two Independent Members of Court (one as Chair): Ms Eleanor Bentley (Chair) and Mr Gary McRae
- A Student Member of Court: Cecilia Wallback, President of Aberdeen University Students' Association
- A Staff Member of Court: Professor Neil Vargesson
- University Secretary (Interim): Mr Steve Cannon

No member of the Group was a member of the Court, of the Remuneration Committee, or of Senior Management during the period under review, ie academic years 2016/17 and 2017/18.

4) PROCEEDINGS OF THE WORKING GROUP

- 4.1 The Group met on four occasions between March and June 2020 (there being a delay for a period due to the outbreak of Covid-19 in the UK). It agreed upon a programme of work to guide its consideration of the issues set by its terms of reference and agreed on the information it required to do so. In accordance with legal advice, the Group did not access the information submitted to the SFC and OSCAR reviews on the basis that this contained information provided by individuals in confidence to those reviews. It did, however, consider information which was either in the public domain, available from officers of the University or which it received by request to the individuals

concerned. The Group agreed that the SFC report had established certain points of fact, which had been accepted by the University, and that this should form the basis for how it determined if there were lessons to be learned for the future.

5) NARRATIVE

- 5.1 The Group has examined in detail the issues addressed by the SFC Review Committee. On the basis of the evidence available to the Group, it concurs fully with the SFC's findings.
- 5.2 The Remuneration Committee that met and approved the payment on 29 July 2017 was formally constituted and quorate but its student member was not included in the formal communication calling the meeting, was not present at the meeting and it is not evident that he received the papers for it. There was a vacancy in the staff membership of the Committee at the time of the meeting.
- 5.3 There was no formal documented business case or options appraisal presented to the Remuneration Committee, notice for which was issued on the evening of Friday 28th July 2017 and was held on Saturday 29 July 2017. The payment was, as the SFC Report details, negotiated between the Principal and the University and some, but not all, independent members of the Court and some senior officers within the University. The Group further concurs with the SFC view that the responsibilities assigned to the Principal under the settlement did not represent "value for money".
- 5.4 The Remuneration Committee was not provided with specific written advice on its value for money responsibilities or its obligations under the Financial Memorandum with the Scottish Funding Council Financial Memorandum or the Scottish Code of Good HE Governance Guidance in so far as they applied to severance arrangements.
- 5.5 There is no record of the Remuneration Committee meeting of 29 July 2017 in the papers or minutes of the October 2017 Court meeting.
- 5.6 The Group further notes the concerns expressed in the SFC Review about the provision and authorisation of outplacement support to the former Principal.
- 5.7 The Group concurs with the SFC Review that the cost of outplacement support should have been disclosed in the financial statements.
- 5.8 The Group's recommendations are framed accordingly.

6) RECOMMENDATIONS

- 1) Identify and review the specific issues raised by the SFC report and make recommendations to Court accordingly.**

Recommendations: The Group recommends:

- 1.1 All members of Court should be regularly reminded of their key responsibilities as charity trustees, of the requirements of the Financial Memorandum, of the Scottish Code of Good HE Governance, and of the principles of public life in Scotland. The University should review the existing induction information provided to members regarding this to ensure this meets this requirement and the Court should consider holding development sessions annually where all members can be reminded and updated on their duties and responsibilities as charity trustees. These should be held, wherever possible, in the early part of the academic year, soon after student members of Court generally take up office (given the short duration of their appointments to Court);
- 1.2 Court and all Court Committees should adopt a formal procedure, based on recognised good practice, specifying the time period for the notice of meetings and the circulation of agendas and papers;
- 1.3 The remit of the Remuneration Committee should be reviewed to ensure its role and responsibilities and the extent of its delegated authority from Court are clearly defined. In particular, the Remuneration Committee remit should be more explicit on its responsibilities

for the consideration of value for money issues and with regard to the relevant requirements of the SFC Financial Memorandum, the Scottish Code of Good HE Governance, the Court and those of wider stakeholders;

- 1.4 The procedure for appraising the Principal should be documented. This should specify who should lead that appraisal and to which committees any recommendations arising from that process are made to, in particular, the roles and authority of the Court and the Remuneration Committee respectively (which should also be reflected in the remits/schedule of delegation of each).
- 1.5 The Remuneration Committee (and all other Court Committees) should ensure it has in place robust procedures for inducting its members and that they are aware of its remit and responsibilities;
- 1.6 The severance policy currently under development should be put in place together with appropriate documented procedures to support its operation, in particular with regard to dealing with any future issues related to the performance of the Principal and how the Court as a body fulfils its collective responsibilities for this. Specifically, therefore, the severance policy and associated procedures should specify:
 - that the dismissal of the Principal or Secretary is, under the Scottish Code of Good HE Governance, a decision reserved to the full Court;
 - who has responsibility for negotiating settlement agreements with the Principal or Secretary;
 - who approves such agreements noting the requirement that decisions related to the Principal and Secretary are reserved to the Court;
 - the consideration of provision of outplacement support in a severance context;
 - when reviewing the overall value of any severance arrangement, the cost of any outplacement support should be included;
 - when internal legal advice on such agreements should be sought;
 - when external legal advice on such agreements should be sought;
 - that where a severance package exceeds the maximum threshold agreed by the Court, the University must consult with the Scottish Funding Council's Accountable Officer prior to approving the proposed severance package;
 - that where a severance package exceeds the maximum threshold agreed by the Court or is novel or potentially contentious, the University must consult the University's external auditor prior to approving the proposed severance package;
 - that the Director of Finance should be informed of all severance arrangements to ensure they are disclosed appropriately in the annual financial statements;
 - the requirements of the Financial Memorandum and Scottish Code of Good HE Governance, including value for money considerations;
- 1.7 The Court should, as set out in its schedule of decisions reserved to it and as set out in the Scottish Code of Good HE Governance, take all decisions related to the dismissal of the Principal or Secretary to the University and should, therefore, be the first group within the University to be advised of such decisions (including retirements);
- 1.8 All committees of Court should provide reports to the next meeting of Court that takes place after the meeting of the committee.

2) Consider the suggestion by SFC that the University may wish to pay back a further amount either to SFC or to a 'learning-related' activity and make recommendations to Court accordingly.

Recommendation 2: The Group does not recommend that the University repay further funding to SFC or to a 'learning-related' activity.

Funding of £119k, equivalent to the proportion that the University would have received from the SFC, was returned to the SFC on 17 February 2020. The Group does not consider it appropriate to pay further funds to the SFC that the University has not received from it.

The Group also does not consider it appropriate that the University, as an educational charity itself, should divert further funding to other learning-related causes, potentially to the detriment

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of staff and students who are themselves engaged in a learning-related activity within the University. The Group notes that this suggestion from the SFC did not form part of the formal recommendations within its report.

- 3) Consider whether the University should ask the former Principal to repay some, or all, of the payments made to him in this regard and make recommendations to Court accordingly.**

Recommendation 3: The Group recommends that the University should formally ask the former Principal to return some or all, of the relevant payments made to him. It does so, having taken into account legal advice and having considered the reputation of the institution, in particular the action it believes the University's staff and students would consider to be appropriate.

Ends