POLICY NOTE

THE ABERTAY UNIVERSITY (SCOTLAND) ORDER OF COUNCIL 2019

S.S.I. 2019/163

The above instrument was made in exercise of the powers conferred upon the Lords of Her Majesty's Most Honourable Privy Council by sections 45 and 60(3) of the Further and Higher Education (Scotland) Act 1992 ("the 1992 Act"). The instrument is subject to negative resolution procedure.

Purpose of the instrument
This instrument sets out the new provisions for Abertay University's governance arrangements.

Policy Objectives

1. Abertay University ("the University")[1], formerly the University of Abertay Dundee, is a higher education institution designated under section 44 of the 1992 Act and has its governance arrangements set out in an Order of Council made by the Privy Council, which the University considers to be its "constitution". The current arrangements are set out in the University of Abertay Dundee (Scotland) Order of Council 1994 ("the 1994 Order"). This Order replaces the 1994 Order and sets out new provision for the governance arrangements of the University. This includes provision for the composition of the University Court and Senate, which is required to comply with the Higher Education Governance (Scotland) Act 2016 ("the 2016 Act").[2] In light of the number of changes that were to be made, it was decided that it would be preferable to make a new order rather than amending the 1994 Order. Having all the provisions in the one order makes it more accessible for the reader and the new order has the advantage of reflecting the change of name of the University.

Proposals

Part 1 – Citation, commencement and interpretation

2. Article 2 of the Order sets out definitions of certain terms that are used in the Order, including the "2016 Act", "Chair of Court", and "University Court", which is the governing body of the University.

---

[1] The University has been operating for some time as Abertay University and is widely referred to under that name. In accordance with section 49 of the 1992 Act, the University has obtained Privy Council consent to change its name formally from the University of Abertay Dundee to Abertay University, effective from the date that this new Order of Council comes into force.

[2] Chapter 1 of Part 1 of the 2016 Act (sections 10 to 14) makes provision in relation to the composition of the governing body of a higher education institution and the appointment of the senior lay member who is its chair (sections 1 to 9); Chapter 2 of Part 1 of the 2016 Act (sections 15 to 17) makes provision in relation to the composition of the academic board.
http://www.legislation.gov.uk/asp/2016/15/contents/enacted

Part 2 – The University

3. Article 3 makes provision relating to the name of the University and the name of the governing body of the University and narrates previous name changes.[3] Article 4 sets out the objects of the University which are to provide education, to undertake and carry out research and to make suitable and adequate provision for teaching, learning, scholarship and research.

Part 3 – The University Court

4. Article 5 provides that the University Court has the powers, privileges and functions to carry out the objects of the University and in particular the powers and functions that are set out in schedule 1. Article 6 provides a general power for the University Court to delegate its powers, functions and duties but sets out the matters that may not be delegated. Article 7 provides that the University Court is responsible for making appropriate arrangements for the financial affairs of the University.

5. Article 8 makes provision for the composition of the University Court. The members are to include the Chair of Court (who is appointed to the position of senior lay member under section 8 of the 2016 Act), the Principal, one or two Vice-Principals, one person nominated by the Senate, two persons elected by the staff, two persons nominated by a trade union (one from the academic staff and one from the support staff), two student members nominated by the students' association, and 10 to 14 lay members. [4]

6. Article 9 provides that the Chair of Court is to be appointed by the University Court in accordance with sections 3 to 8 of the 2016 Act and an appointment process prescribed by the University Court. The University Court is to prescribe the duties, responsibilities and terms and conditions of the Chair of Court, including remuneration and allowances. Under article 10, the University Court is to make rules for the appointment of the Vice-Chair who is appointed from among the lay members. The Vice-Chair presides at meetings of the University Court and exercises the functions of the Chair of Court if the Chair is absent or the position is vacant. When both the Chair of Court and Vice-Chair are absent at any meeting, the University Court may appoint a chair from among the lay members.

7. Article 11 provides that staff members of the University Court who are appointed under article 8(d) will be elected in accordance with rules made by the University Court under section 11 of the 2016 Act, following consultation with the staff of the University. Article 12 provides that the members nominated by the Principal, trade union and students' association (under article 8(c), (e) and (f), and (g) respectively) will be nominated in accordance with rules made by the University Court, and, in the case of the trade union and students' association nominees, following consultation as required by the 2016 Act. The member of the University Court

[3] The University was previously named the University of Abertay Dundee, Dundee Institute of Technology and Dundee College of Technology. Its governing body was previously named the University Court of the University of Abertay Dundee, the Governors of Dundee Institute of Technology and the Governors of the Dundee College of Technology.

[4] This complies with section 10 of the 2016 Act, which provides that the governing body of a higher education institution is to be composed of an elected senior lay member, two elected staff members, two members nominated by a trade union with a connection to the University (one from the academic staff and one from the support staff) and two student members nominated by the students' association.

nominated by the Senate under article 8(h) is to be nominated in accordance with rules made by the Senate and approved by the Court.

8. Article 13 provides that the University Court is to make rules for the term of office for the different categories of member. Article 14 provides that the University Court may make rules for the resignation and removal of members from office in accordance with section 13 of the 2016 Act. The University Court may also make rules under article 15 for managing conflicts of interest of its members.

Part 4 – Appointments

9. Article 16 provides that the University Court is to appoint a Chancellor who has the function of conferring degrees, diplomas, and other academic distinctions. Article 17 provides that the University Court is to appoint a Principal and Vice-Chancellor as the chief academic and executive officer of the University. The Principal carries out such functions relating to the organisation, management and discipline of the University as the University Court may prescribe. The Principal has the powers and duties of the University Court in relation to those functions but is still subject to its general control and direction. In the absence of the Chancellor, the Principal is to carry out the functions of the Chancellor. Article 18 provides that the University Court is to appoint such Vice-Principal and Deputy Vice-Chancellors as it considers appropriate and makes provision for the functions of the Vice-Principals. In the absence of the Chancellor and the Principal, the University Court may appoint a Vice-Principal to carry out such of the functions of the Chancellor as the University Court may prescribe. Article 19 provides that the University Court is to appoint a Secretary to the University Court and to prescribe the duties of the Secretary.

Part 5 - The Senate

10. Article 20 provides that the University Court is to appoint and maintain a Senate constituted and appointed in accordance with the 2016 Act.[5] The University Court is to make the rules for the term of office and eligibility for reappointment of members of the Senate. The Principal is the Chair of the Senate and is to nominate a Vice-Principal to serve as the Vice-Chair. Article 21 provides that Senate proceedings will be regulated by a scheme made by the Senate and approved by the University Court which must provide for a minimum number of Senate meetings each year and may provide for Senate appointed committees and other matters connected with the functions of the Senate.

Part 6 – Students' association

11. Article 22 provides that, in consultation with the students, the University Court is to make a scheme for the constitution and functions of the students' association, which includes rules by which the association is able to make representations to the University Court. The constitution of the students' association and any changes to that constitution is subject to the approval of the University Court and to review by the University Court. The University Court is to make such payments to the students' association as it considers appropriate.

---

[5] Section 15 of the 2016 Act provides that the academic board is to be composed of: the principal; the heads of school; persons elected by the staff of the institution who are to make up more than 50% of the total membership; persons elected by the students of the institution who are to make up at least 10% of the total membership; and such others as are appointed by virtue of an enactment or in accordance with the institution's governing document or decision of the governing body.

Part 7 - Miscellaneous

12. Article 23 makes provisions for the transitional arrangements of the Chairman and the president of the students' association who are in post immediately before the coming into force of the Order to be regarded as if appointed to the University Court in accordance with this Order. Article 24 introduces schedule 2 which makes amendments to the Dundee College of Technology Scheme 1975. Paragraphs 2 and 3 of the Scheme are amended to reflect the new name of the University and its governing body and a new paragraph 2A is substituted to provide for the application of this Order to the Scheme. Paragraph 4 of schedule 2 revokes various paragraphs of the Scheme which means that only paragraphs 1 to 3 and 26 and schedule 1 of the Scheme remain in force.

13. Article 25 provides for the revocation of the 1994 Order.

Commencement

14. The Order will come into force on 1st September 2019.

Consultation

15. The Scottish Government consulted the Privy Council Office, Abertay University and the Scottish Funding Council during the preparation of this instrument.

Impacts

16. A Regulatory Impact Assessment has not been prepared as this instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Higher Education and Science Division

May 2019