POLICY NOTE

THE GLASGOW CALEDONIAN UNIVERSITY AMENDMENT ORDER OF COUNCIL 2020

S.S.I. 2020/172

Purpose of the instrument: To amend the Glasgow Caledonian University Order Of Council 2010 to reflect the requirements of the Higher Education Governance (Scotland) Act 2016.

1. The above instrument is made in exercise of the powers conferred upon the 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 the negative resolution procedure.

Policy Objectives

2. Glasgow Caledonian University ("the University") is a higher education institution designated under section 44 of the Further and Higher Education (Scotland) Act 1992 ("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 Glasgow Caledonian University Order Of Council 2010 ("the 2010 Order") made under section 45 of the 1992 Act.

3. The purpose of this Order is to amend the 2010 Order to ensure that it complies with the requirements of the Higher Education Governance (Scotland) Act 2016 ("the 2016 Act"). Chapter 1 of Part 1 of the 2016 Act makes provision in relation to the governing body of a higher education institution. It makes provision for the membership of each governing body to include a senior lay member (or "Chair") with responsibility for the leadership and effectiveness of the governing body (section 1). The senior lay member is to be appointed following an appointment process which includes election by the staff and students of the institution (sections 3 to 8). Chapter 1 of Part 1 of the 2016 Act (sections 10 to 14) makes provision for the membership of the governing body. Chapter 2 of Part 1 of the 2016 Act (sections 15 to 17) makes provision in relation to the composition of the academic Court.

4. Section 10 of the 2016 Act provides that the governing body of a higher education institution is to be composed of: the senior lay member; two persons elected by the staff; two persons nominated by a trade union with a connection to the institution (one from the academic staff and one from the support staff); two student members nominated by the students' association of the institution; and such other persons appointed by virtue of an enactment or in accordance with the governing document of the institution. Sections 11 and 12 provide that the election and nomination process for the staff, student and trade union members is to be conducted in accordance with rules made by the governing body of the institution.

5. Section 15 of the 2016 Act provides that the Academic Court 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. Section 16 provides that the election of staff and student members is to be conducted in accordance with rules made by the governing body of the institution.

6. The amendments which this instrument makes to the governance arrangements set out in the 2010 Order are further described below.

Proposals

7. Article 1 of the Order provides that the Order comes into force on 1 October 2020 and provides a definition of the 2010 Order for the purposes of this Order.

8. Article 2(2) amends article 2 of the 2010 order which sets out relevant definitions.

9. Article 2(3) and 2(4) makes minor amendments to articles 4 and 5 of the 2010 Order (functions and powers of the University Court respectively).

10. Article 2(5) makes amendments to article 8 of the 2010 Order (matters which the University Court cannot delegate).

11. Article 2(6) omits articles 10 and 11 of the 2010 Order and inserts new articles 10 to 11C:

    a. New article 10 sets out the composition of the University Court.

    b. Article 11 provides that governors elected under article 10 are elected in accordance with rules made by the University Court in accordance with section 11 of the 2016 Act.

    c. Article 11A provides that governors nominated under article 10 are to be nominated in accordance with rules made by the University Court in accordance with section 12 of the 2016 Act.

    d. Article 11B provides that the Chair must be appointed in accordance with sections 3 to 8 of the 2016 Act and an appointment process prescribed by the University Court.

    e. Article 11C makes provision for the appointment of the Vice-Chair.

12. Article 2(7), (8) and (9) of the Order make consequential amendments relating to the new composition of the Court.

13. Article 2(10) of the Order substitutes articles 16, 17 and 18 of the 2010 Order (ineligibility of staff to be governors, vacation of office of governors and filling of vacancies) with a new article 16 to provide a power for the University Court to make rules for the resignation and removal of governors.

14. Article 2(11) omits article 20 of the 2010 Order (reserved areas of business).

15. Article 2(12) of the Order makes consequential amendments relating to the new composition of the Court.

16. Article 2(13) of the Order amends article 26 of the 2010 Order (Chancellor) by including additional paragraphs to make provision in relation to the appointment and role of the Pro-Chancellor.

17. Articles 2(14) and 2(15) of the Order make minor amendments to articles 27 and 28 of the 2010 Order respectively (Principal and Vice-Chancellor and staff).

18. Article 2(16) of the Order substitutes article 30 of the 2010 Order (University Senate) with new articles 30 (appointment of Senate), 30A (functions of Senate) and 30B (proceedings of Senate).

19. Article 2(17) of the Order omits the schedule of the 2010 Order which made provision for the Senate.

20. Article 3(1) of the Order makes transitional provision for the Chair to provide that the Chair appointed under the 2010 Order who is in office immediately before commencement of this Order is treated as if appointed in accordance with the 2010 Order as amended by this Order.

21. Article 3(2) of the Order makes transitional provision to ensure that the President of the Students' Association appointed as governor under the 2010 Order who is in office immediately before the commencement of this Order is treated as if appointed in accordance with the 2010 Order as amended by this Order.

Commencement

22. The Order will come into force on 1 October 2020.

Consultation

23. The Scottish Government consulted the Privy Council Office, Glasgow Caledonian University and the Scottish Funding Council during the preparation of this instrument.

Impacts

24. 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
12 May 2020