POLICY NOTE

THE ROBERT GORDON UNIVERSITY (SCOTLAND) ORDER OF COUNCIL 2019

S.S.I. 2019/375

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 Robert Gordon University's governance arrangements.

Policy Objectives

1. Robert Gordon University ("the University")[1], formerly The Robert Gordon University, 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 Robert Gordon University (Scotland) Order of Council 2006 ("the 2006 Order").

2. This Order replaces the 2006 Order and sets out new provision for the governance arrangements of the University. This includes provision for the composition of the University Board and Academic Council, 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 2006 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

[1] Although the University has been in existence for some time, in 2006 it was closed and re-established by the Robert Gordon University (Establishment) (Scotland) Order 2006 in order to give effect to the University's desire to incorporate the University itself rather than its governing body. The legal name of the University was 'The Robert Gordon University'. As it is also commonly referred to as 'Robert Gordon University', which causes confusion and makes the University difficult to find in alphabetical lists of HEIs, the University formally changed its name. It was given Privy Council approval on 9 November 2018.

[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

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

Part 2 – The University

4. 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. 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 Board

5. Article 5 provides that the Board has the powers, privileges and functions to carry out the objects of the University and lists the particular functions and duties. Article 6 provides a general power for the Board to delegate its powers, functions and duties but sets out the matters that may not be delegated. Article 7 makes provision for the composition of the Board. The members (i.e. the Governors) are to include the Chair of the Board (who is appointed to the position of senior lay member under section 8 of the 2016 Act), the Principal, one Governor elected by the Academic Council from among its members who are academic staff of the University, two Governors elected by the staff, two Governors nominated by a trade union (one from the academic staff and one from the support staff), two Governors nominated by the students' association, and up to 13 other Governors appointed by the Board in accordance with its rules and procedures.

6. Article 8 provides that the Chair of the Board is to be appointed by the Board in accordance with sections 3 to 8 of the 2016 Act and an appointment process prescribed by the Board .[3]

7. Under article 9, the Board is to make rules for the appointment of the Vice-Chair who is appointed from among the Governors. The Vice-Chair presides at meetings of the Board and exercises the functions of the Chair of the Board if the Chair is absent or the position is vacant. When both the Chair of the Board and Vice-Chair are absent at any meeting, the Board may appoint a chair from among the lay Governors.

8. Article 10 and 11 provide that the Governor referred to will be elected in accordance with rules made by the Board under section 11 of the 2016 Act. Before making or modifying the rules the Board must consult the representatives of anyone with a right of nomination under and affected by the proposed rules.

9. Article 12 provides that the Board is to make rules for the term of office for the different categories of Governors. Article 13 makes provision for the responsibilities of the Governors which includes discharging the responsibilities of the Board and prescribes that they have their personal responsibilities specified in a code of conduct approved by the Board, which all Governors must comply with.

[3] 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.

10. Article 14 provides that the Board may make rules for the resignation and removal of Governors from office in accordance with section 13 of the 2016 Act. Article 15 provides that the Board may also make rules for managing conflicts of interest of its members.

Part 4 – Academic Council

11. Article 16 provides that the Board is to appoint and maintain an Academic Council in accordance with the Act and is to make the rules relating to the appointments. Article 17 makes provision for the functions and duties of the Academic Council.

Part 5 – Miscellaneous

12. Article 18 narrates the transitional provisions. The Chair who is in office immediately before 1 January 2020 will be regarded, for the remainder of that period in office, as if appointed by to the position of the Board in accordance with articles 7(a) and 8(1) of this Order. Governors elected under article 5(4)(c) of the 2006 Order who are in office immediately before 1 January 2020 will be regarded for the remainder of that period in office, as if appointed by to the position of the Board in accordance with article 7(g) of this Order.

13. Article 19 provides for the revocation of the 2006 Order.

Commencement

14. The Order will come into force on 1st January 2020.

Consultation

15. The Scottish Government consulted the Privy Council Office, Robert Gordon 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.