Council Effectiveness Review

Durham University
November 2

Halpin

Executive Summary

1. Halpin has been commissioned by Durham University to advise on a review of the effectiveness of the Council of the University. The Committee of University Chairs (CUC) Code of Higher Education Governance requires universities regularly to carry out such reviews, with external advice. We report to a Steering Group established by the Council for this purpose.

2. During the course of the review we interviewed members of Council and of the University Executive Committee (UEC). We also interviewed the immediate past and incoming Vice-Chancellors and Wardens. We conducted a survey, a desk review and observed meetings of Council, Senate and certain committees.

3. Our main conclusion is that the Council of Durham University is **effective** and **good** with some **leading edge** features (see paragraph 9 below).

4. This summary has been written to be self-standing but, where possible, should be read in conjunction with the main report which contains much more context and argumentation.

Governance Context

5. The background to this review is one of unprecedented challenges for governing bodies and leadership teams during a global pandemic. Durham University was able to pivot rapidly to remote working and learning, while keeping its community safe. The governance of the University has been stress tested as never before and has proved itself equal to the task. It is to the University's credit that it has commissioned this review at an exceptionally busy time and in transition between the outgoing and incoming Vice-Chancellor and Wardens.

6. The University emerges into a perfect storm of headwinds. These are but a few of a long list:

    *   The shift in public policy from those who go to University towards those who do not.
    *   An uncertain funding and policy environment pending the Government's final response to the post-18 Augar Review.
    *   Reductions in planned research spending and continued uncertainty over participation in the EU Horizon programme.
    *   Disruption to international recruitment and collaboration in the light of the continuing global pandemic.
    *   The valuation of the Universities Superannuation Scheme (USS) and its implications for institutional sustainability.
    *   The "culture wars" as they play out in universities.
    *   Equality, Diversity and Inclusion.
    *   Increasing regulation and encroachment upon autonomy.

7. There are three legs to the "governance stool" in universities, like Durham, incorporated by Royal Charter; the Council as the governing body, the Senate as the academic authority and the Vice-Chancellor or equivalent, accountable to Council as Chief Officer and to Senate as its Chair. It is vital, if the stool is to remain stable, that respective roles and responsibilities are mutually understood, respected and adhered to.

Durham University

8. Founded in 1832, Durham is England's third oldest university. It now has some 20000 students, 4000 staff and a turnover of some £400million. The University operates across four faculties which contain 26 academic departments including arts and humanities, social sciences, science and business. Students belong to one of 17 Colleges which, in the words of the Annual Report, "provide a unique supportive environment to inspire [students] to become the best they can be, in their studies and beyond." The University is incorporated by Royal Charter and is a member of the prestigious Russell Group of 24 leading UK universities. The Council is the governing body of the University and the Senate its academic authority. In common with other English universities Durham is an exempt charity regulated by the Office for Students.

Findings

9. Our main conclusion is that the Council of Durham University is **effective** and **good** with some **leading-edge** features. We emphasise that our proposals are made from an already high baseline and on the basis that continuous improvement is always possible even in the best of organisations. Among the **leading edge** practice we commend are the following:

    *   the process by which members of Council are appointed, especially in relation to staff members;
    *   the rigour and quality of agenda setting and paperwork;
    *   the skills, experience and personal qualities of Council members;
    *   the courtesy and quality of debate and discourse displayed in meetings;
    *   the passionate commitment of Council members to the University and especially its students;
    *   the work of the Chair, University Secretary and her staff in recent years to improve the quality and effectiveness of governance at the University;
    *   the positive relationships between the various categories of Council members and the leadership team;
    *   the exceptional commitment, judgment and decision-making displayed by Council and the Executive during 2019-21 in relation to the Covid-19 pandemic in the most challenging circumstances.

Governance Framework

10. The University is incorporated by a Royal Charter which is largely now of historical interest. The key governance requirements are set out in Statutes and General Regulations. These have been subject to a root and branch review by the University which is now moving towards its conclusion. We have reviewed the proposed changes and confirm that we believe them to be appropriate and sensible.

Size and Composition of Council

11. Council has 24 members including 12 lay members i.e., not staff or students, 7 members appointed from staff who are not members of the University Executive Committee (UEC) and including 5 academics, two student members and five *ex officio* the Chancellor, the Vice-

Chancellor and Warden (VCW), the Deputy Vice-Chancellor, the Dean of Durham and the President of Durham Students' Union (DSU). The Chancellor, whose role is ceremonial, does not attend Council and a strategic decision has been made to invite another student member to Council meetings. It is intended that the removal of the Chancellor and the addition of the second student member will be regularised by the Statutes review.

12. There has been a trend in recent years for the Councils of chartered universities to decrease in size. At 24 members, Durham is within a typical range of 20-24 with other chartered Russell Group universities. In discussion with Council members there are a range of views but the majority opinion is that there is no compelling case to reduce the size of Council at present. It would be possible, over time, to reduce to around 18 members mainly by proportionately reducing lay and staff members but it is challenging to reduce to fewer than 18 given the need to maintain a clear lay majority while retaining staff and student representation. We have therefore **recommended** that Council reconsiders the question of its size in the light of this report and comes to its own determination on the merits or otherwise of reducing (but not increasing) its size.

13. We **commend** the work of the Governance and Nominations Committee (GNC) in identifying members with a wide range of skills and experience who are, without exception, deeply committed to and invested in the success of Durham University and its students. In common with other universities there is more to do in terms of identifying and appointing candidates from under-represented groups, but the GNC is working hard on this. Among other proposals we **recommend** that Council considers appointing a lay member as its own equality, diversity and inclusion champion to work alongside the new Pro-Vice-Chancellor (PVC) appointment in this area.

14. We are particularly impressed with the appointment arrangements for staff members which largely mirrors that for lay members i.e., a formal advertisement/shortlisting/interviewing process rather than staff members being elected from Senate or the Professional Services.

15. In the light of the requirement of the Office for Students (OfS) on Councils to provide assurance on quality, standards and the student experience we have emphasised the importance of Councils maintaining appropriate higher education experience among lay members.

16. Relationships between Council members with each other and with senior executives are courteous and respectful. Because of the pandemic newer Council members had never met other Council members so there is a desire for more informal interactions now that is again possible.

17. The Colleges are a distinctive feature of Durham. They are not particularly visible at governance level but there is no support for an *ex officio* Colleges member of Council. Members take assurance from the role of the PVC for Student Experience who acts as Deputy Warden of the Colleges. We **suggest** that College staff be especially encouraged to apply for Council membership.

Council Committees

18. Council's committee structure is lean and effective. We were particularly impressed by the Audit and Risk Committee's (ARC) work. The Remuneration Committee complies with the CUC Senior Staff Remuneration Code. We observed meetings of Finance Committee, ARC and UEC, all of which were well chaired with good paperwork and informed, supportively challenging discussion. Committee Chairs present their reports knowledgeably and confidently to Council.

19. Some members of Council and executives feel that, compared with finance and infrastructure which are considered at Finance Committee prior to Council, people issues could be foregrounded more at Council. We put forward a number of options for this, but highlight the possible need for a Strategy, Performance and Resources Committee (SPaRC) to be created to replace Finance Committee and the University Strategic Implementation Committee (USIC). This Committee would bring together oversight of strategic planning and performance together with the key enablers of people, finance and infrastructure. We **recommend** that Council considers this possibility.

20. In relation to the Donations Advisory Panel we **recommend** that the Gift Acceptance Policy be reviewed to bring it into line with good practice, perhaps as part of a wider review of philanthropy governance.

21. Unusually, in Russell Group chartered universities, UEC is a joint committee of Senate and Council. The more usual model is for the equivalents of UEC to be either committees of Council as the governing body or advisory to the Vice-Chancellor, acting within the powers delegated by Council to that post holder.

22. Other than drawing attention to this unusual position, we decided it would be premature to make any recommendations pending the effectiveness review of Senate since Senate would need to be consulted on the arrangement as well as Council.

23. In our observation of ARC and UEC we noted a desire to be reflective and for discussion to reflect the values of the University. We **commend** this approach to all committees.

Delegation

24. Council has an up-to-date Statement of Primary Responsibilities publicly available in accordance with CUC guidance. However, its Scheme of Delegation is out of date and needs to be revised in line with the Statement of Primary Responsibilities. This provides an opportunity for Council to review the limits of its financial delegations to the VCW and Finance Committee. These seem to us to be lower than in other universities we have worked with, and we suspect this can lead to delays in approvals and unnecessary repetition of discussion in a number of bodies prior to securing approval. We have **recommended** a review of the Scheme of Delegation and have suggested revised limits for delegation for capital and revenue with appropriate safeguards.

Academic Assurance

25. There is a clear requirement in Council's Statement of Primary Responsibilities "to receive and test assurance that academic governance overseen by Senate is adequate and effective". The Statement is reinforced by Council's code of Conduct and Statement of Academic Freedom and Freedom of Speech which are publicly available. Council receives regular written reports from Senate and Senate and Council hold a joint meeting annually. Council members feel they can take assurance on the quality and standards of Durham awards and other OfS regulatory requirements. They take this assurance more widely than just from Senate e.g., from executive reports, comparative data, the Students' Union and student surveys. Council members in general feel they have a good understanding of regulatory requirements. We confirm that, to the best of our knowledge and belief, Council is fulfilling its regulatory responsibilities. Further analysis will need

to await the outcome of the Senate Effectiveness Review (SER) given Senate's role as academic authority.

Council Meetings

26. We observed two Council meetings, both of which were held virtually. Attendance was good, the agenda were full but manageable and paperwork was of high quality. Meetings were well chaired, paced and inclusive. We had a strong sense of a group of able, committed people working together as Trustees for the benefit of the institution. Relationships are strong, cordial and mutually supportive. The arrival of a new VCW and a new University Secretary inevitably engenders some uncertainty, but we are confident Council has and will prepare the ground well for the new appointees, especially since the current Acting Vice-Chancellor will remain as Deputy Vice-Chancellor and Provost.

Culture

27. In our opinion compliance is the entry ticket to good governance; culture is the key to governance excellence. Without a strong and positive culture compliant organisations can fail for cultural reasons e.g., groupthink, an over-mighty Chief Executive or a lack of challenge and inquisitiveness. The culture of corporate governance at Durham has greatly improved in recent years and we **commend** the efforts of the Chair, immediate past VCW and the Secretary for the significant improvements they have led. We have put forward a number of ideas for cultural audit and improved stakeholder engagement, always against the background that Council needs to hold itself somewhat at arms' length in order to hold the Executive to account. Council is non-executive and not involved in the day to day running of the University but also needs to avoid appearing remote from the communities it serves. This is a delicate balance to strike.

Equality, Diversity & Inclusion (EDI)

28. It is noted that the good work done through the Respect Commission has led to advancements in the EDI work. There is a level of interconnectivity between both. However, it is important to be aware that progress on the Respect Commission does not always necessarily equate to progress on EDI work – there should be distinct objectives and pathways for both.

29. Despite there being three EDI Strategic Performance Indicators (SPIs), there is no Council level EDI statement, policy, or action plan. It should be made clearer the role that Council members themselves need to play in supporting the University in their EDI mission. To better demonstrate the Council's leadership on EDI to the wider university community we **recommend** that there should be an EDI action plan that includes what the responsibly of Council is. When the new PVC EDI starts this should be one of the areas of focus.

Stakeholder and Student Engagement

30. It is evident from interviews, focus groups, observations, and the survey that stakeholder voices and engagement are valued and respected at the Durham University.

31. It is **recommended** that Council considers how it may assure itself through governance that it has sufficient opportunity to hear the internal stakeholder (staff and student) voice beyond the representation on Council.

32. Whilst many of the accountabilities for responding to these issues will rightly lie with the executive, it is **recommended** that Council considers how it will raise its profile and increase transparency with internal stakeholders, both staff and students, to meet the obligations it feels it has under the CUC Code. We believe a bespoke Council-level stakeholder plan would bring focus to stakeholder engagement activities. We note the University Executive Committee are developing wider stakeholder strategy. This is a good starting point for the Council to consider how they can support that process.

Conclusion

33. Durham is a fine University well served by its Council. We hope our report will help in a small way to enable the Council to go from strength to strength.

University Governance Maturity Framework[1]

Based on this review, the Halpin team have plotted below where they find Durham measures across the Governance Maturity Framework.

Note: The characteristics shown under each column category are not intended to be comprehensive but only indicative. Universities normally will display characteristics in several of these column categories at any one time. The term "Board" includes "Council", and the term "Senate" includes "Academic Board".

	Inadequate[2]	Improving	Good	Leading Edge[3]
University Constitution[4]	Poor governance documentation & processes which are not accessible to staff and students. The Constitution has not been modernised and in the case of Chartered Universities, the University does not have the power to make relatively minor changes without Privy Council permission	Governance documentation & processes are in order but would benefit from simplification and being easily accessible. The Constitution has not been modernised and in the case of Chartered Universities, the University does not have the power to make relatively minor changes without Privy Council permission.	Governance documentation & processes are easily understood and accessible internally to staff & students. The Constitution has been modernised and in the case of Chartered Universities, Privy Council permission is required only for major changes.	Governance documentation & processes are easily understood and accessible internally to staff & students and externally to stakeholders. The Constitution has been modernised and in the case of Chartered Universities, Privy Council permission is required only for major changes
	No delegation framework.	Delegated powers not clearly established and so confusion sometimes as to who exercises authority - the Board or the VC.	Delegated powers are clearly set out showing what is reserved for the Board but are still not clear for Academic and Executive delegations.	Delegated powers are clearly set out showing what is reserved for the Board with further schedules setting out Academic and Executive delegations.
Board/Council Membership	Equality, diversity and inclusion (EDI) awareness does not exist. Inadequate member selection & induction processes.	Some EDI awareness. Otherwise, satisfactory recruitment & induction processes.	Good EDI processes. Good quality recruitment & induction processes.	Good EDI processes. Capable, diverse and inclusive members appointed. There are good member succession planning processes.
	No Board training or appraisal.	Some training and appraisal processes. The Chair is not appraised.	Training and Appraisal processes exist for all members including the Chair.	Good appraisal processes which are used as a learning opportunity for the Board. Senior Independent trustee appointed or alternative safeguards/arrangements in place.
	Members are unclear about their responsibilities	Members understand their responsibilities but	Members understand their role and	Members understand the University's culture &

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[1] Last updated November 2021
[2] Characteristics found in some governance failures
[3] Current best practice found
[4] Universities which are Higher Education Corporations or Companies limited by Guarantee can make changes to their constitutions without Privy Council Permission. Chartered Universities must obtain Privy Council permission.

	Inadequate[2]	Improving	Good	Leading Edge[3]
	and do not connect with the University staff, students or units outside of meetings.	sometimes act as if they are managers. They have minimal connection with University staff, students or units.	responsibilities and act accordingly. They regularly connect with University staff, students & units.	business and their role and responsibilities. They act accordingly. They regularly connect with University staff, students & units.
	Members do not enjoy their role which involves firefighting and much frustration. Their reputation may be very much at risk.	Members believe that the University's position is improving, and they will enjoy their role.	Members enjoy their role and believe they are making a difference.	Members and the Executive believe the Board adds value. They enjoy, learn & "give back" by being governors.
Key Relationships	Dysfunctional relations between VC, Chair and Secretary.	Satisfactory relations between VC, Chair and Secretary.	Good relations between VC, Chair & Secretary.	VC, Chair & Secretary work as an open trusting team.
	Members' level of experience & relevant skills are not satisfactory. Members do not act as a team.	Some Members have good experience & relevant skills, but they do not yet act as a team.	Most members have good experience & relevant skills. The Board is taking action to improve their ability to work as a team.	Members are very experienced and have relevant skills. They act as a team to challenge & support the Executive.
	Some Members question the general capability of the Executive.	Members support some of the Executives' efforts but are not convinced they have the right officers for a good Executive team.	Members see the Executive as capable and respect them but see areas for improvement.	Members & the Executive engaged in a respectful, open, trusting relationship. Executive capacity, capability & succession planning regularly reviewed.
Board/Council Focus	There are immediate & major regulatory, quality and/or financial risks. The University reputation may be under attack.	The regulatory, quality and/or financial risks are improving but are still significant.	The regulatory, quality and/or financial risks are under control. They are regularly monitored & mitigated.	Risk & Strategic decision-making is aligned and prioritised in meetings. Planned success criteria relating to decisions are monitored.
	The Board is firefighting & very operationally focused.	The Board tends to be too operational. However, it is involved in setting the University Strategy & monitoring its implementation.	The Board sets the University Strategy & monitors its implementation. It monitors progress against any regulator or student-driven priorities.	Significant Board time is spent on horizon scanning & understanding the market, risks & opportunities. The Board is very outcome-driven.
Board/Council Meetings	Poor conduct at Board meetings. Some members dominate discussions. Poor chairing & secretarial support.	Improved discussions and conduct. Some decisions taken outside of meetings by senior members. Staff and student members can feel that they are "second class" members, Secretarial support needs improving.	All Members feel involved in decisions and able to say what they want at meetings. Constructive challenge is evidenced in the minutes Good Secretarial support.	Good quality, well-chaired discussions fully involve all members. Board Secretary with senior status, relevant experience and appropriate independence in place. Challenge & the value added by the Board is clear in the minutes.
	Lengthy, inadequate and/or late Board papers. Decisions taken with inadequate information & scrutiny by members.	Lengthy Board papers cover the issues adequately, but the Executive tend to pass their responsibilities to the Board by telling it everything.	Board Portal in use. Some Executives demonstrate they accept their ownership of outcomes in short risk-focused Board papers which give good assurance.	Short risk-focused Board papers (using graphs & other visual methods) are the norm along with short presentations supplemented by regular briefings. Good assurance given to the Board.

	Inadequate[2]	Improving	Good	Leading Edge[3]
Other Committees	Poorly operating Committee structure. There is disconnection between the Board & its Committees.	Committees function satisfactorily - basic improvements to membership & processes having been implemented.	Committees functioning well. They seek continual improvements. The Board gets reasonable assurance from its Committees.	Committees operate to a high standard & are good at collaborating with each other. The Board gets good risk-focused assurance from its Committees.
Stakeholder Engagement	Board felt to be remote from the staff and students. Board not focused on students or staff.	The Executive conducts staff and student surveys and reports on these to the Board.	Clear evidence that staff and student views are reflected in decision-making processes.	Regular and effective two-way communication between the Board and the staff & students.
	Incoherent corporate culture. A values statement exists but is not used by the Board or the Executive.	Board discusses & agrees the values of University but does not monitor the culture of the University.	Board sets and takes responsibility for the corporate values & culture.	Board lives & monitors the corporate culture checking that behaviours are consistent with the University's values.
Other Committees	Stakeholder information not published.	Required regulatory information published for stakeholders e.g., value for money, gender pay.	Stakeholder strategy developed and starting to be implemented. Some good stakeholder reporting.	University accessible and relevant to the University's local communities. Board takes responsibility for the socio-economic impact of the University. Good stakeholder information.
Board/Council Reviews	The only reviews are those commissioned by the Regulator.	Occasional Board effectiveness reviews focused on compliance.	Board has occasional external reviews of its effectiveness against the HE sector.	Board regularly has external reviews of its effectiveness against the best in HE and other sectors.