

## Main report

At its meeting in November 2013 the Governance & Effectiveness Committee considered those aspects of the Taught Degree Awarding Powers (TDAP) Scrutiny report that made reference to the School's governance arrangements and the implications for future governance structures and procedures.

The report touched on the following issues:

- Board membership
- Committee process
- Sub-committee work

A working group was held on 30 September 2014 to consider further the implications of the points raised by the TDAP scrutiny panel in its final report and the discussions at the November meeting, with the intention of formulating amendments to the *Instrument and Articles of Government* for recommendation to the Governance & Effectiveness Committee reporting to the Board of Governors. Amendments were suggested with one eye to the future, noting that in a few years' time the School will apply for research degree awarding powers and there will be an expectation at that scrutiny that the School will have addressed the points raised at the previous scrutiny.

The working group considered a draft of this report and suggested some further minor amendments and one significant change concerning the composition of the membership of the Board. These amendments have been incorporated into Annex 1. The initial draft considered by the working group was also seen by the Town Clerk's Department, which was represented at the working group, and the Department's comments are reflected in the latest draft.

Whilst the amendments follow a standard higher education approach, their final legal form will need to be checked by the Comptroller and City Solicitor's Office and it is hoped initial feedback will be available to the Governance & Effectiveness Committee on 7 November.

### Instrument and Articles of Government

Amendments to the *Instrument and Articles of Government* (Annex 1 amendments in grey highlights and ~~strikethrough~~) are proposed as follows:

- (i) Locating the Academic Board and degree awarding powers within the School's governance structure [*Instrument of Government* new paragraphs 6, 7 & 8]

- (ii) Protecting the primacy of the Academic Board in academic matters  
[*Instrument of Government* new paragraph 6, and *Articles* new paragraph 27]

*Both these amendments reflect sector expectations about the respective roles of a Council/Board of Governors and an Academic Board. Whilst a Council is the supreme governing body it should not make decisions on academic matters without first consulting the academic community represented by the Academic Board. However, there is no requirement of the governing body to follow the advice of the Academic Board.*

- (iii) Revisions to reflect HE sector governance expectations [*Articles* paragraph 1 new primary responsibilities in bullet points]

*The CUC Guide for Members of Higher Education Governing Bodies in the UK states that an institution's governing body should adopt a Statement of Primary Responsibilities and provides a model statement. A statement has been included in the audited Financial Statements for the School drawn from the Articles but additional clauses from the model have been now been incorporated.*

- (iv) Align the membership so that there is proportional representation from the School's three stakeholder areas, the City, Higher Education, and the professions  
[*Instrument of Government* paragraph 1 and *Articles* revised paragraph 5]

*The CUC Guide states "All members should exercise their responsibilities in the interests of the institution as a whole rather than as a representative of any constituency." and "There should be a balance of skills and experience among members sufficient to enable the governing body to meet its primary responsibilities and to ensure stakeholder confidence." The proposed amendments seek to rebalance the stakeholder interests at Board level, with the intention of strengthening the Board's ability to collaborate with the creative industries and engage them with the Higher Education agenda. Although a reduced City membership is proposed, the City's interests are still preserved as many decisions of the Board will continue to be subject to consideration and approval by other committees within the City of London.*

### **Common Council membership**

*An overall reduction from eleven to eight in the Common Council membership is proposed, but with the inclusion of two members in an ex-officio capacity this is likely to alter the actual mix of individual Common Council members to a greater extent. The process of change will need to be managed carefully, but a gradual phasing out would be incompatible with the revised Instrument and Articles unless a transitional Instrument is also presented to the Privy Council. There is, however, a precedent within the City of London for standing down the membership of a committee and reappointing and this may be the most pragmatic option.*

*The Governance & Effectiveness Committee is also asked to consider whether the Nominations Committee should have a role in determining the membership drawn from the Common Council,*

*in line with practice for the City Academies (see paragraph 1, bullet point one of the Instrument of Government).*

### **Ex-officio membership**

*This new category embodies the previously expressed desire of the Board that the Chairman of the Barbican Centre Board and the Chairman of the Culture, Heritage & Libraries Committee should be full members of the Guildhall School Board.*

### **HE representation**

*HE experience within the Board of Governors was a specific query arising from the Quality Assurance Agency's Academic Committee for Degree Awarding Powers' consideration of the scrutiny report. The suggested amendments seek to ensure specific external HE experience will always be present within the membership.*

### **Industry representation**

*With specific provision for HE members this will give greater scope to appoint individuals of note from the professions directly connected to the training on offer by the School.*

### **Quoracy**

*The revised quoracy requirement also rebalances the board (all members are now equal except in being Chair/Deputy Chair).*

(v) Clarify membership and organisation matters [*Instrument of Government* new paragraph 5 and revised paragraph 10, *Articles* new paragraph 31]

*The Instrument and Articles of Government are currently silent on the matter of non-consecutive terms of office, although "for a term of three years (renewable twice)" implies a total period of office of 9 years. The CUC code does not prohibit a member serving more than one 9 year term (where the local rules permit) where the expertise of the individual is particularly valuable but otherwise the principle of "new blood" is expected to be observed. [This approach is supported by the recommendation of the Second Report of the Nolan Committee (1996), Recommendation 48]. As the governing bodies of HEIs have been criticised for being self-perpetuating (see 5.08 of *The Law of Higher Education, Farrington & Palfreyman, 2006*) the School would wish to be seen as following best practice, ie not perpetuating memberships and therefore should adopt in practice a maximum period of appointment.*

### **Committee support**

The CUC guide provides specific advice on the proper division of responsibilities of the clerk to a governing body and the head of institution. In theory, for the School, the division is maintained by the Town Clerk designated as clerk, with the day-to-day responsibilities delegated to a junior member of staff within the Town Clerk's Office. However, this junior member of staff does not have a higher education background and, therefore, there is no senior HE administrator providing advice to

the Board. For instance, when recent issues have arisen about membership periods of office in HE and the conduct of staff member elections, advice was sought from within the School, via the Principal's Office. It would also be the norm for the Clerk to the Board to lead on governance matters, including amendments to the *Instrument and Articles of Government*. So, in practice, in some matters the division is not maintained and in other matters the higher education perspective can be missed.

Given the calibre of the current Principal and his own HE expertise, neither the Board nor the School has suffered from the current arrangements, but the CUC recommendations are there for when things might go wrong. It would be useful to commission an external consultant, with significant HE governance experience, to conduct a short, sharp audit of the current clerking arrangements – from agenda planning to the provision of legal and procedural advice to the board – to identify the risks in the current arrangements and make recommendations. Costs of an external consultant will be dependent upon the scope, and discussions have yet to take place to determine the appropriate budget line for this work. However, the Principal has discussed with the Assistant Town Clerk the principle of moving the committee support to the School and there were no objections in principle although the practicalities would need further discussion.

### **The Academic Board**

The School has reviewed its internal academic governance structure and the report [as amended by the Teaching & Learning Board following its meeting on 7 October 2014] is provided for information at Annex 2. It is proposed that the current Teaching & Learning Board is replaced by an Academic Board, “Academic Board” or “Senate” being the usual HE terminology for the governing body in academic matters. The academic governance structure sets out the decision tree for the exercise of degree awarding powers establishing a School Board of Examiners to make the final decision on ratifying degree results. The establishment of the School Board of Examiners also seeks to address some of the TDAP scrutiny panel concerns about the workload of the Teaching & Learning Board.

It should be noted that the TDAP scrutiny panel was not convinced that the Teaching & Learning Board should delegate responsibility to a single School Board of Examiners to ratify degree results. However, the School is satisfied that with a two tier approval system (Programme Assessment Board and then the School Board of Examiners) there are sufficient checks and balances. Also the School Board will be chaired by the Chairman of the Academic Board, the Principal, and clerked by the same office.

This model is consistent with other ratification models elsewhere in the HE sector.

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# **APPENDIX 1**

**GUILDHALL SCHOOL OF MUSIC & DRAMA  
INSTRUMENT AND ARTICLES OF GOVERNMENT**

# Guildhall School of Music & Drama

## **INSTRUMENT AND ARTICLES OF GOVERNMENT in accordance with section 129A Education Reform Act 1988 (Government and Conduct of Designated Institutions)**

### **Definitions**

In the Instrument and Articles of Government, the follow expressions have the meanings set out below.

“the Act”	means Education Reform Act 1988 as amended from time to time;
“the Board of Governors”	means the Board of Governors of the Guildhall School of Music & Drama as appointed from time to time in accordance with paragraph 1 of this Instrument”
“the Clerk to the Board of Governors”	means the Town Clerk or his representative;
“the Court of Common Council”	means the Court of Common Council of the City of London Corporation;
“HEFCE”	means the Higher Education Funding Council for England;
“the Institution”	means the Guildhall School of Music & Drama;
“the Nominations Committee”	means the sub-committee of the Governing Body established to seek out and recommend the appointment of new co-opted members of the Board of Governors;
“the Principal”	means the Principal of the Institution as appointed from time to time;
“the Town Clerk”	means the Town Clerk and Chief Executive of the City of London Corporation for the time being.

In this Instrument and Articles of Government, words importing the masculine gender only shall include the feminine gender and neuter meaning and vice versa.

## Instrument of Government

1. The constitution of the Board of Governors is:
  - ~~11~~ 6 members elected by [or appointed from] the Court of Common Council for a term of three years (renewable twice);
  - 6 members representing UK higher education, comprising
    - one member of the Institution's academic staff to be elected by such staff for a term of three years (renewable twice);
    - one member of the Institution's administrative staff to be elected by such staff for a term of three years (renewable twice);
    - one of the Institution's student representatives who shall normally be the President of the Student's Union;
    - three co-opted non-City of London Governors with appropriate expertise of the UK higher education sector
  - three ex-officio members, comprising
    - the Principal of the Institution;
    - the Chairman of the Barbican Centre Board
    - the Chairman of the Culture, Heritage & Libraries Committee
  - up to six co-opted non-City of London Corporation Governors with appropriate expertise for a term of three years (renewable twice).
2. When a vacancy occurs in the Board of Governors, the member elected to fill it will continue for the remainder of the term of the member creating the vacancy.
3. Any Court of Common Council member wishing to serve on the Board of Governors must notify the Town Clerk in writing and all applications received will be listed in the Summons for the meeting of the Court at which the appointment is to be made. The Common Council members of the Board of Governors will need to have experience in the following areas: corporate finance (including accounting and audit); corporate governance; human resources; business management at a senior level; legal matters and property and estate management.
4. The Nominations Committee will advertise vacancies for co-opted members of the Board of Governors which indicate the skills, knowledge and experience required for the post. The qualifications should reflect the needs of the Institution in the fields of music, theatre, arts management, broadcasting/media and higher education. In making its recommendations to the Board of Governors, the Nominations Committee must pay regard to the balance of membership and the needs of the Institution and may keep a "skills register" against which to consider the field of candidates. The issue of inclusion of members of the local community must also be addressed.



5. With the exception of the Principal, none of the Governors will serve on the Board of Governors for more than a maximum of nine years in total. An extension will only be considered by the Nominations Committee in exceptional circumstances where the expertise of the individual is particularly valuable or to accommodate the rotation of the Chairman to Deputy Chairman as set out in Article 13 below.

### **Committees**

6. The Board of Governors will establish an Academic Board which will be the body responsible under delegated authority from the Board of Governors for the regulation of the academic work of the School in teaching, examination and research. The Academic Board will also advise the Board of Governors on academic matters affecting the School. The Academic Board may establish standing and ad hoc committees to consider and report on any matters within the Academic Board's remit.

7. Under the *Power to Award Degrees etc (Guildhall School of Music and Drama) Order of Council 2014*<sup>1</sup>, the Academic Board shall confer degrees, diploma certificates and other academic distinctions of the School and may revoke such awards conferred by the School.

8. The membership and terms of reference of the Academic Board shall be as prescribed in the Ordinances.

[Note: The School has an *Academic regulatory framework* but there does not appear to be a similar document (no Statutes or Ordinances) which would regulate the governance side of the School, and would normally contain the terms of reference, membership and modus operandi of the BoG substructure. The recommendation is that Ordinances should be created.]

9. The Academic Board will report at least annually to the Board of Governors.

10. The Board of Governors may establish other committees and in so doing shall have regard to the "Committee of University Chairmen Guide for Members of Higher Education Governing Bodies in the UK" as amended or substituted from time to time (see article 28). The membership and terms of reference for such subcommittees shall be as prescribed in the Ordinances.

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<sup>1</sup> Granted the 3<sup>rd</sup> day of April 2014 by the Lords of Her Majesty's Most Honourable Privy Council

## Articles

### Board of Governors: terms of reference and statement of primary responsibilities

1. The Board of Governors will be responsible for:
  - the approval of a strategic plan and the determination of the educational character and the mission/aims of the Guildhall School of Music & Drama and oversight of its activities;
  - the effective and efficient use of resources and the establishment and monitoring of key performance indicators;
  - the approval of an annual Business Plan including the approval of annual estimates of income and expenditure;
  - the setting of fees for students attending the Institution;
  - the approval of the annual audited financial statements of the School;
  - the appointment of the Principal of the School and, where appropriate, the deputy;
  - ensuring management systems are in place to maintain compliance with statutory and regulatory obligations;
  - ensuring that appropriate risk management procedures and associated internal controls are established and effectively maintained;
  - the general welfare of students in consultation with the Academic Board;
  - the management of the School's land and buildings belonging to the City of London Corporation (with the exception of those which are the province of another Committee) subject always to compliance with the Code of Practice for the Disposal of Property;
  - writing off debts in accordance with such terms and conditions as are from time to time established by the Court of Common Council;
  - authorising the institution of any civil proceedings (e.g. for recovery of debts) arising out of the exercise of its functions;
  - conduct its business in accordance with best practice in higher education corporate governance and with the principles of public life drawn up by the Committee on Standards in Public Life;

each of the above to be subject to the City of London Corporation's Standing Orders, Financial Regulations and such other terms and conditions as the City of London Corporation may determine, other than where varied otherwise.

### The Principal

2. Without prejudice to the rights of the City of London Corporation, the Board of Governors and any committee thereof, the following powers are delegated to the Principal:

- to make such decisions and to initiate such action as he/she deems necessary in the interests of the efficient running of the Institution and the services provided by the Institution;
- to make proposals to the Board of Governors about the educational character and mission of the Institution and to implement the decisions of the Board of Governors;
- the appointment, assignment, appraisal and dismissal of staff;
- the maintenance of student discipline and the suspension or expulsion of students on disciplinary grounds in accordance with the procedures relating thereto in force from time to time and the implementation of decisions to expel students for academic reasons;
- to incur revenue and capital expenditure and enter into commitments on behalf of the City of London Corporation where appropriate provision has been included in either the revenue or capital estimates, subject to compliance with Standing Orders
- to act as Chief Accounting Officer for HEFCE purposes.

### **Staff**

3. Each member of staff shall serve under a contract of employment with the City of London Corporation.

### **Procedures for meetings**

4. The Chairman and Deputy Chairman of the Board of Governors shall be elected from the Common Council Governors (excluding the ex-officio members).
5. The quorum consists of any seven ~~Common Council~~ Governors including the Chair or Deputy Chairman.
6. If the quorum is not established within five minutes of the hour stated on the summons for the meeting, the formal meeting will be dissolved and formal consideration of the business adjourned to the next regular meeting unless, in the opinion of the Chairman, a special meeting should be called before that date.
7. If during a meeting of the Board of Governors a quorum ceases to exist and there is no reasonable likelihood that it will be re-established, the meeting will be dissolved and all remaining business adjourned to the next meeting. Any items that have not been considered by the meeting before its dissolution and which, in the opinion of the Chairman require a decision before the next meeting will be considered in accordance with paragraph 8.
8. The Chairman will:
  - (a) preside at every meeting of the Board of Governors at which he is present;

- (b) sign the minutes of proceedings of the previous meeting when approved as a correct record;
  - (c) in the case of an equality of votes, have a second or casting vote. If the Chairman is unwilling to exercise a second or casting vote the decision shall be taken by lot;
  - (d) determine all questions of order;
  - (e) have power, after consultation with the Deputy Chairman, to
    - (i) convene an additional meeting;
    - (ii) vary the date and/or time and/or place of a scheduled meeting;
    - (iii) cancel a meeting if in his opinion there is insufficient business to warrant the holding of such a meeting or for other reasons.
9. At the first meeting of the Board of Governors following the appointments by the Common Council the Town Clerk will read out a list of members eligible to take the Chair and each of those members will be asked if he is willing to serve.
  10. A member unable to be present may previously express in writing to the Town Clerk his willingness to serve.
  11. The names of those who are willing to serve will be voted on by Ballot. The successful candidate will require a majority of the votes cast.
  12. The Deputy Chairman will in the absence of the Chairman have the powers, rights and duties of the Chairman.
  13. The immediate past Chairman will be Deputy Chairman for the first year on election of a new Chairman.
  14. When the immediate past Chairman has completed his year of office as Deputy Chairman, the other members of the Board of Governors who are members of the Common Council are eligible to seek election as Deputy Chairman and the provisions of paragraphs 9, 10 and 11 shall apply to the meeting at which the election takes place.
  15. Unless otherwise determined by the Board of Governors, all meetings of the Board of Governors are open to the public unless:

(a) confidential information as defined in section 100A(3) of the Local Government Act 1972 is to be discussed; or

(b) a resolution has been passed to exclude the public as there is likely to be disclosure of exempt information as defined in Part 1 of Schedule 12A Local Government Act 1972.

16. Public notice of the time and place of meetings of the Board of Governors will be posted in an appropriate place at least five working days before the meeting, or if a meeting is convened at shorter notice, then at the time it is convened.
17. The Town Clerk acts as the Clerk to the Board of Governors and will issue a summons for each meeting of the Board of Governors stating the time and place at which the Board of Governors will meet and setting out the order of business.
18. A meeting of the Board of Governors may be summoned upon the requisition of a number of its members not less than the quorum provided they have business to lay before the Board of Governors. Such business will be set out in detail together with the reason(s) why the matter(s) to be raised could not wait until the next regular meeting.
19. A special meeting of the Board of Governors shall not except in the case of absolute necessity be called on the same morning or afternoon of another Committee of the Court of Common Council, and under any circumstances the special meeting shall be called at a different time from that of the other Committee.
20. Except in cases of urgency or where circumstances make it impracticable, the summons and accompanying papers will be sent to members six clear days in advance of the meeting of the Board of Governors.
21. Every member of the Board of Governors must confine his speech strictly to the motion or amendment under discussion or to a point of order or explanation, and must not be repetitious. The ruling of the Chairman on issues of relevance or repetition is final.
22. At any time a member may raise a point of order or make a personal explanation necessitated by the statement of another member. Any member speaking at the time must give way when a point of order or personal explanation is made. The ruling of the Chairman on a point of order or the admissibility of a personal explanation is final.
23. If a member stands either while another member is addressing the Governing Body or, if there is a motion before the Board of Governors, at the conclusion of a speech

and moves “*That the question be now put*”, and this motion is seconded, that question shall be put forthwith and without debate unless the Chairman is of the opinion that the motion is premature or in any sense is an abuse of the rules of the Board of Governors. In no case shall the mover be precluded from a right to reply should he elect to exercise it.

24. Decisions made by the Board of Governors will be either unanimous or will represent the view of the majority of those members present and eligible to vote. The Town Clerk will, if requested, record in the minutes of a meeting the name(s) of any member(s) dissenting from a majority decision.
25. In the event of disorder or a persistent disregard of the authority of the Chair, and if he considers it necessary in the interests of maintaining order, the Chairman may:
  - (a) direct the member(s) causing disorder or disregarding his authority to retire for the remainder of the meeting or for such shorter period as the Chairman may decide. In the event of non-compliance with that instruction and with the consent of the majority of the Board of Governors to be shown immediately on a show of hands, the Chairman shall take all reasonable steps for the removal of such member(s) from the meeting;
  - (b) require a member(s) of the public to be removed from the meeting.
26. If, after two hours from the appointed time for the start of the meeting the business has not been concluded the meeting will adjourn and any unfinished business will stand adjourned to the next meeting unless a two-thirds majority of the members present wish the meeting to continue and subject to there being a quorum.
27. The Board of Governors may not dissolve the Academic Board without the approval of the Privy Council. It may amend the Academic Board’s terms of reference and membership provided (i) that such amendments do not substantially alter the Board’s overall remit as set out in paragraphs 6 and 7 of the Instrument of Government and (ii) that the Academic Board has been formally consulted.
28. (1) The Board of Governors may at any time:
  - (a) constitute, dissolve or alter the membership of a sub-committee set up by them with the exception of the Academic Board, see paragraph 27 above;
  - (b) within its terms of reference, authorise a sub-committee to act on behalf of the Governing Body;

(c) appoint a working party to consider and report on particular matters but any such working party shall have no delegated powers.

(2) The quorum for a sub-committee shall be any three of its members.

29. Between scheduled meetings of the Board of Governors or any sub-committees thereof, if:

(a) in the opinion of the Town Clerk, it is urgently necessary for a decision to be made; or

(b) the Board of Governors or sub-committee have delegated power to the Town Clerk to make a decision;

then the powers of the Board of Governors or subcommittee may, where lawfully possible, be exercised by the Town Clerk. Before exercising this power, he shall seek and obtain the comments of the Chairman and Deputy Chairman of the Board of Governors or sub-committee or, failing either of them, their nominees. Each action or decision shall be reported to the next regular meeting of the Board of Governors or sub-committee.

30. If a matter for decision is under consideration by the Board of Governors in which a member had a personal interest he must declare the existence and nature of his interest in accordance with the Code of Conduct.

### **Procedures for staff member elections**

31. Elections for the staff members of the Board of Governors shall be conducted by the Clerk to the Board.

### **Students' Union**

32. There shall be a Students' Union of the Institution which shall have the composition, powers and functions as prescribed in the rules in force from time to time.

### **Amendment**

33. This Instrument and Articles may be amended by a resolution of the Common Council of the City of London Corporation either with the approval of the Privy Council or as required by the Privy Council in accordance with section 129 of the Act.