



Regulations for the Election and Appointment of the Senior Lay Member of the University Court

Introduction

1. The following regulations have been prepared in accordance with the requirements of the Higher Education Governance (Scotland) Act 2016 (the Act). The Act requires that the governing body of a higher education institution (in the case of the University of Edinburgh, known as the University Court or Court) is to include the position of a Senior Lay Member.
2. The appointment of the Senior Lay Member is conducted through three stages:
 - (i) advertisement, application and interview;
 - (ii) election; and
 - (iii) appointment.
3. The following procedures and rules will be the basis for the drafting of further information and communications regarding the process for appointment of the Senior Lay Member to students, staff, applicants and candidates.

Eligibility for Appointment

4. Any person is eligible to be appointed as Senior Lay Member except:
 - 4.1 Students¹ of the University and former students of the University for a period of four years since they ceased to be a student or any further student who has been excluded by the University;
 - 4.2 Members of staff² of the University and former members of staff for a period of four years since they ceased to be a member of staff or any former member of staff who had been dismissed by the University;
 - 4.3 Anyone “actively involved” in any other Higher Education Institution (a definition of active involvement is appended);
 - 4.4 Anyone who is unable to meet the requirements for a charity trustee as determined by the Office of the Scottish Charity Regulator³;
 - 4.5 Anyone who has served on the Court for a total period of six years or more;
 - 4.6 Anyone who has previously been disqualified or dismissed from membership of the Court.
5. Members of the Court who are not students or members of staff of the University are eligible to be appointed as Senior Lay Member subject to the time period limit in section 4.5, but the role may not be held simultaneously with another role on Court.

¹ Defined as ‘fully matriculated’ students – set out in more detail in the Voting section below.

² Any individual who holds a contract of employment with the University of Edinburgh and is on the University Payroll

³ See: <https://www.oscr.org.uk/managing-a-charity/trustee-duties/>

Period of Office

6. Appointment to the position is for a period of three years and may be extended for a further and final period of three years by agreement of the Court on the recommendation of the Nominations Committee, without recourse to a further election.
7. During consideration of any reappointment the Senior Lay Member, if a member of the Nominations Committee, will withdraw from any participation in the decision.
8. Any recommendation to re-appoint the Senior Lay Member will be informed by the following considerations:
 - (a) The length of time the Senior Lay Member has served on the Court in total, taking into account the relevant higher education governance guidance on periods of office applicable at the time;
 - (b) The extent to which the Senior Lay Member continues to meet the criteria for appointment as the Senior Lay Member;
 - (c) Assessment of performance in the role to date; and,
 - (d) Any other rules made by the Court from time to time.

Selection Panel and Relevant Criteria

9. Where a vacancy for the position of Senior Lay Member arises, the Court will delegate to the Nominations Committee responsibility for:
 - (a) Devising the relevant criteria with respect to the position of Senior Lay Member. The relevant criteria shall include the availability, skills, knowledge and experience considered by the committee to be necessary or desirable, to discharge the role and to command the trust of the Court, Senate, and the wider staff and students of the University;
 - (b) Ensuring the efficiency and fairness of the process for filling the position;
 - (c) The publication of anonymised data on the number of applicants for the position, and, so far as consent to disclosure has been received by the committee from the applicants, the characteristics listed in section 149(7) of the Equality Act 2010 with respect to the applicants, the applicants invited to attend interview, and the applicants entitled to stand as candidates in an election for the position following such an interview; and,
 - (d) Ensuring that any advertisement for the position of Senior Lay Member meets the requirements of section 4 (2) of the Act.
10. The Nominations Committee may appoint an Selection Panel, which shall include at least one person from (i) the staff, and (ii) the students of the institution and be convened by a lay (non-staff or student) member of Court. If there is an incumbent Senior Lay Member, they will not be a member of the Selection Panel or participate in the appointment process. If for any reason a Selection Panel member

is unavailable they may appoint a nominee provided that the conditions on the composition of the Panel as set out above are met.

Election Rules

11. Where more than one applicant is deemed by the Nominations Committee (or Selection Panel if appointed) to meet the criteria to stand for election and has confirmed their intention to stand as a candidate an election will be arranged. If only one candidate meets the criteria for election or the number of candidates in the election, either prior or during the process, subsequently falls to below two then in accordance with the Act the election will be postponed until the election can be held with more than one candidate standing (and the vacancy will be re-advertised). The remaining candidate will continue to be entitled to stand as a candidate in the subsequent rearranged election without further interview.

12. The Deputy Secretary Strategic Planning shall be the Returning Officer for the election. If for any reason the Deputy Secretary Strategic Planning is unavailable, the Nominations Committee will appoint a Returning Officer. The Returning Officer will be responsible for managing the electoral process, including the arranging of the announcement of candidates and their election statements, arrangements for voting and the electoral roll, the application of the election rules herein, including with regard to the content of election statements, considering complaints raised in relation to the conduct of campaigning and the election itself, imposing sanctions as appropriate.

13. The following guiding principles will underpin the election; elections should be free and fair; campaigning should be positive and respectful; campaigns should not be intrusive and rule breaches should be dealt with by corrective rather than punitive measures where appropriate.

14. The University will make available on its website to all electors the names of the candidates, and should candidates wish, their photograph and an election statement which will be limited to 500 words. Statements will be approved by the Returning Officer prior to publication. In addition, candidates will be required to provide short biographical details. An open meeting(s) for candidates to address students, staff and Court members will be organised by the University. Any other campaigning activity and reimbursable expenses will be regulated through rules agreed by the Nominations Committee (see Annex A).

15. Any complaints concerning the conduct of the election or allegations of infringements of election rules should be referred to the Returning Officer. The Returning Officer has full discretion to respond to alleged breaches of rules including the imposition of sanctions, up to and including, candidate disqualification. An election may be declared null and void, in which case a new election will be initiated.

16. Any appeals against a decision of the Returning Officer will be considered by the Chancellor's Assessor, Sheriff Principal Alastair Dunlop QC. If for any reason the Chancellor's Assessor is unavailable the Nominations Committee will appoint another member of the University Court to hear any appeals. Such appeals must be submitted in writing (by email to court@ed.ac.uk or letter to Room 203, Old College)

within 48 hours of the decision having been made. Appeals will only be considered on the grounds of procedure or prejudice. The decision of the Chancellor's Assessor will be final and there is no further route of appeal.

Voting

17. In accordance with the Act, the following persons are entitled to vote in an election:

- (a) the members of the Court on the census date;
- (b) the students⁴ of the University on the census date;
- (c) the staff⁵ of the University on the census date;

18. The census date will be determined by the Returning Officer and will typically be the final day of the month in the penultimate month before an election, e.g. 31 January 2020 for an election planned for March 2020.

19. No individual is entitled to cast more than one vote in the election. Each vote cast in the election carries equal weight.

20. The election is won by the candidate who secures a simple majority of the total number of votes cast. In the event of a tie between two or more candidates for the highest number of votes cast the successful candidate will be determined by the drawing of lots by the Returning Officer. The drawing of lots can be witnessed by the tied candidates or a representative nominated by a tied candidate.

21. The election will be conducted through electronic voting via a secure online voting system. Voting will be open for a prescribed period. The Nominations Committee will determine the dates of the election period, which will be during either Semester 1 or Semester 2. Where a change of circumstances occurs which in the opinion of the Returning Officer renders the voting period insufficient to enable a representative vote to be obtained under the special conditions prevailing at the time, the Nominations Committee may agree to extend the said voting periods as they consider necessary.

22. Proxy voting is not permitted. Where a member of the electorate is unable to vote electronically, the University will, if requested, be required to make reasonable arrangements for the elector to have access to facilities to cast their vote, in a manner and timeframe approved by the Returning Officer.

23. The validity of any election shall not be affected by any defect in the procedure in carrying out such an election or infringement of these Election Rules unless:

⁴ Defined as 'fully matriculated' students on the same terms as the agreed election rules for the election of the Rector. This includes students in attendance on a course of study or enrolled in one or more classes and excludes students registered for the purpose of graduation or examination only and any postgraduate students who have completed their prescribed period of study.

⁵ Any individual who holds a contract of employment with the University of Edinburgh and is on the University Payroll

(i) on the application of a candidate or an individual designated as a candidate's representative made to the Returning Officer, or

(ii) at the instigation of the Returning Officer where they become aware of such a potential defect in the procedure or any potential infringement of these Election Rules, and after due enquiry, considers that a defect or infringement has had or may have an adverse impact on a fair and free election.

In those circumstances the Returning Officer will make such arrangements and/or apply such sanctions as the Returning Officer considers reasonable and proportionate to remedy and/or to provide redress for the harm caused by the procedural defect or infringement of these Election Rules. Such arrangements and sanctions may include but are not limited to, permitting all or some candidates to provide additional materials to the electorate, pausing or suspending the election, extending the election period, rescheduling the election, rejecting campaign expense claims, disqualifying candidates and/or declaring the election to be invalid.

Arrangements in the Event of a Delay in the Process

24. If for any reason there is a substantive delay in an election taking place, for example, owing to there being only one candidate or an election having to be re-run, and where this results in the period of office of the incumbent Senior Lay Member ceasing before a successor is appointed, the Convener of Policy & Resources Committee will undertake the role of Senior Lay Member until a successor is appointed.

Remuneration and Terms of Appointment

25. In accordance with the Act, the person appointed may request remuneration and allowances in respect of their service as Senior Lay Member at a level determined by the Court.

26. The person elected shall be subject to the Court's terms and conditions of appointment, and regulate their conduct in accordance with the highest standards of governance, as set out in the University Court's Code of Conduct, adherence to which is part of the terms of the appointment of all members of the Court. In addition, the person elected is subject to the Charities and Trustee Investment (Scotland) Act 2005 which provides for circumstances under which an individual is disqualified from serving as a charity trustee and the person elected will be required to confirm that they are not so disqualified as part of their terms and conditions of appointment. Material breaches of the terms and conditions of appointment as determined by the Court may result in dismissal from office.

Approved by the University Court, 2 December 2019

Annex

Guidance and Rules on the Conduct of Candidates in Senior Lay Member Elections

1. Campaigning may only be undertaken during the period specified by the Returning Officer. No campaigning should be undertaken by candidates until they have been notified of that period permitted by the Returning Officer.
2. Each candidate shall be entitled to provide a photograph, short biography and election communication of not more than 500 words which will be made available to the electorate by the University.
3. Candidates in an election will be invited to attend an 'Open Meeting(s)' before an audience of students, staff and Court members, at which candidates will have the opportunity to address the audience and take questions.
4. All candidates will be required to note and follow the following rules:
 - There will be no attempt to limit the kinds of media or campaign material that may be used in campaigning, but candidates must be aware that there may be legal constraints on use of flyers and other forms of publicity and that they alone will be responsible for any legal penalties.
 - Official endorsements of candidates by any organisation, or by individuals representing or perceived to be representing an organisation are not permitted. Specifically, this includes endorsements by the University or by its constituent parts (whether Colleges, Schools, Directorates or other units and centres); by any of the recognised campus unions or similar organisations; by the Students' Association or by members of the Court.
 - Candidates must not break the law or bring the University into disrepute.
 - Other than for the Open Meeting(s) referred to above, use of University buildings for campaign purposes is not permitted other than with specific prior permission from the manager of any University building.
 - All campaign materials (banners, posters, etc.) must be taken down within 48 hours of close of voting.
5. Travel expenses incurred by each candidate for attendance at interview or to attend the 'Open Meeting(s)' will be reimbursed subject to being consistent with the University's policy on expenses and will normally be limited to £500 per candidate.
6. Up to £350 may be expended on each election campaign. This includes all publicity expenses. The University acting through the Court Services Office can provide an election campaign allowance of up to £350 to each candidate in advance upon request. Candidates must keep all receipts and a detailed record of expenses for submission to the Court Services Office to ensure that the election campaign allowance has been spent appropriately, any unspent funding must be refunded to the University. Candidates who spend more than £350 (excluding a candidate's personal travel and subsistence costs) may be disqualified.

7. Use of pre-existing e-mail, phone or mailing group/lists by candidates for the purpose of promoting their campaign is not permitted. Harvesting of data from any such lists for campaign purposes is also not permitted.
8. Candidates may canvass individuals known to them. Unsolicited canvassing of other voters by e-mail, mail or phone using University directories or resources is not permitted. As noted at section (2), the University will ensure that the candidate's statement is made available to voters.
9. No candidate is permitted to supply free or discounted alcoholic drinks or illegal substances for students or staff in the course of the campaign
10. A breach of these rules may result in the disqualification of a candidate.

Appendix

Definition of “*active involvement*” in another Higher Education Institution (HEI)

The University interprets “*active involvement*” in another HEI as follows:

- a) The prospective candidate holds a contract of employment at another HEI;
and/or
- b) The prospective candidate is a fully matriculated student at another HEI;
and/or
- c) The prospective candidate is a member of a governing body or a senior governance committee at another HEI – unless they agree to relinquish this position at the other HEI before taking office as the Senior Lay Member at the University of Edinburgh.