

The changing face of governance – Episode 1

Podcast transcript

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Key

- + **Aaron Porter:** AP (host)
- + **Alison Johns:** AJ
- + **Janet Legrand:** JL

Transcript

AP: Hello and welcome to this Advance HE podcast, the first in a series which is celebrating 20 years of governance support for the higher education sector. I'm Aaron Porter, associate Director of Governance, and I have the pleasure of supporting governors across the UK through Advance HE, his Governor Development programme. And I'm also a governor at two institutions, chair of the board of BPP University and deputy chair at Goldsmiths University. Now, today's episode, we're considering the changing face of governance, how it's changed over these last two decades. Future sessions will look at sustainability, board diversity, the role of student and staff governors and academic governance. But on today's topic of the changing face of governance, I'm delighted that we're able to be joined by two distinguished guests. Alison Johns is the chief executive of Advance HE, having worked in the higher education sector for 30 years, including with responsibility previously for leadership and governance at Hefce, and is a past president of the Association of University Administrators. She has served on the board of Norwich University of the Arts and is currently on the court of Saint Andrew's University. We're also joined by Janet Legrand. Janet is the senior lay member of Court at Edinburgh University and is on the board of Advance HE, having previously served as Deputy Chair of Council at City University London. Her professional career is in law and she was senior partner and board Chair at DLA dla Piper. She has been chair of the Children's Society and is currently chair of the RNC. Now today's session, we're looking, as I say, at the changing face of governance, and we've got a few big questions that we're going to try and tackle, and I'm just going to throw things open and consider, I think the first question, which really allows us to get a bit of a sense of how higher education governance has changed. And I wonder, Alison, if I might invite you first, offer your views on the extent to which you feel higher education governance has changed, particularly from the point of view of providers over this last 20 years.

AJ: Of course, Aaron, and thank you very much. Well, it's quite interesting because 20 years ago was 2003, and that's when I actually joined Hefce. And one of my first jobs there was to start thinking about a code of governance. So 20 years ago there was no code of governance in higher education. I remember we looked at Australia, where the code was then attached to funding, and we were very clear that we didn't want to do that. And we

wanted commitment, not compliance. And I think that was really the principle behind the code. And of course it had a comply or explain element to it as well. So it was flexible. But since then the code was developed, it's been reviewed and redeveloped. There's a Scottish Code of governance which is also had a review and been developed. There's now a code for remuneration and there's also there was also developed during that period audit finance and risk code. And we saw during that period as well the introduction of academic governance. And I know that will also be a subject of a further, further conversation that we'll be having here. So I think we can see moving from no codes of governance to several revisions, but to a code of governance which is widely adopted and supported, and I think has been instrumental in professionalizing governance in the higher education sector.

AP: Thanks, Alison. And Janet, you've been a deputy chair of an English university. You're the senior lay member of a Scottish university. And your period of being a governor has sort of gone through different phases of the higher education sector. And I wondered what your thoughts are on how governance has changed during that period.

JL: Well, thank you, Aaron. My experience doesn't go back as far as Alison's, but I joined, um, the court at City in 2015, and at the time, I think the court was very small, um, much smaller than I've seen elsewhere. And I think probably unusually so for the time, its staff membership was largely drawn from people with leadership positions in the university. It had one student representative, a majority of external council members. And the main change I noticed while I was there was the recruitment of a former vice chancellor to assist the council in discharging its responsibilities around the assurance of academic governance. Um, and if I contrast that with the court at the University of Edinburgh, which joined in 2020. At that time, the new higher education governance legislation was just bedding in and its intention was to widen the range of stakeholders on court. So now it's it's not unusual in Scotland as, as Alison will know, to have a whole range of people on court. I have 23 at Edinburgh and they include elected representatives from both academic and professional services, um members of Senate, trades union representatives, which is a very new and more student representation. And as the world's oldest civic university, we also have representation from the city in in the form of the Lord Provost. But again, a majority of external members of court and of course, the principal. And those changes are still bedding in in Scotland. But contrasting the two systems, I've been particularly struck by the benefit of having external members of court having direct access to representatives from a broad cross-section of the university community. You get a really helpful internal staff perspective on on relevant issues. So quite a difference, I think, between the two, the two jurisdictions.

AP: I think it's interesting across both your your comments, three things in particular have stood out for me. Um, the first that Alison referred to, which is how, um, the codes and regulation has changed over time from nothing existing 20 years ago to revisions to those codes subsequently. I think the second is composition, and there have been changes to composition of UK university and higher education providers. We're aware of a piece of mapping work that was done at the UCL Institute of Education in 2019 that suggests now

that the average size of an English university governing body is just short of 19, 18.7. And I think for those of us that have been thinking about governance in the early 2000, and certainly prior to that, we would be more used to governing bodies in the in the 20s and possibly even larger than that. And I think the third point that's interesting as well, and something we'll touch on a little more later in this session, is the divergence across the UK as well, from a legislative point of view, but also from a kind of policy point of view, as this is a devolved matter in the four countries of the United Kingdom, there have been understandable changes. There are some similarities nonetheless, but there are also some differences. Alison, you've also been a governor in England and you are presently a court member in Scotland. And I wondered how you felt that those changes in the system in Scotland were still bedding down, as Janet referred to.

AJ: Well, when you talk about changes, I'm not sure. Sure, there's a difference in terms of electing the senior lay member. And the ancients, like my university, will also elect a rector. Um, and in many sense, uh, you know, the election of the rector has been in it's been a piece of legislation since 1858 or 59, I think. So no change there. And I think many of the practices in the olden ancients has not seen much change. I'm glad you made the point about the, you know, university boards shrinking in size. And we know that some are as small as 8 or 10, which is it is unusual. Um, so, you know, the big change was when the elected senior lay member role came into play in Scottish legislation a few years ago, which I think is an interesting challenge, um, about how do you actually secure people, quality people who are willing to stand for election, put their social capital on the line? And there's a question about would would that impact on the quality of people you might attract to do this? Clearly with Janet here, that is not a question that we need to worry about. And I've also seen some very good people, um, be elected. Perhaps it's the point for later on. We are seeing changing demographics, and I was only reading an article this week about the growing number of black female rectors who are being elected to the role of rector, and I think what's promising about that is when it comes to diversity on the boards, you can put in lots of mechanisms and measures to move towards diverse boards.

Um, but when it comes to an election, you can't control that. So it's good to see that actually happening. But there is one point I would like to make. So we're talking about the nation's, um, what I'm seeing, though increasingly is the other countries we work in so advanced. He does a lot of work internationally. Um, and I'm seeing governance move up the list of priorities, particularly as other countries seek to move towards more autonomous institutions. They're really seeing the value of good governance. And so we have advanced. He are now working with the ministry in Uzbekistan, helping to develop good governance, develop a code, lay the foundations for that and have recently come back from Australia, where governance is part of the has has come out as a as an important issue as part of the accord, the major review of higher education there. It's quite focused in one particular area at the moment, but there's a general consensus. So I'm seeing governance, you know, moving up the priorities, not just in the UK but globally. It's beginning to become seen as more and more important.

AP: And in many respects, I think that's a feature of higher education systems becoming more important in the nations in which they're placed. And so if the system is more important, how they are governed and how they're also managed becomes more important as well. And governments will take a view on that and the extent to which they can afford those institutions autonomy. As you say, there are some interesting studies and certainly some interesting work that's going on that actually suggests that although it's important to provide a framework for institutions within that, there should be a healthy degree of autonomy to allow institutions who are best placed to make the right decisions for them. But of course, that relies on having the right skills and also the right diversity on on those boards and on those councils to make the best decisions. And I wonder if we might turn to a related topic and something we've not touched on really as yet, but around the regulatory environment, we did talk about the fact that there has been changes across the UK, and one of the reasons for that is funding. But another reason for that is regulation. And we have, in truth, four quite different systems of regulation now across the four countries of the UK and of course many systems beyond that elsewhere. And I wondered whether you had any, um, initial thoughts and I might start with you, uh, Janet, um, whether you had any thoughts about how the regulatory environment has shifted higher education, governance and what the implications of that have been.

JL: Well, I certainly noticed a change in higher education governance in England, with the switch of the regulator from Hefce to the Office of Students. And I have the impression that universities were more inclined to seek informal guidance on issues from the previous regulator. Um, and they perhaps had a closer relationship, um, as a result, and inevitably, with the setting up of the office in 2017, the relationship became more formal and the regulatory burden also increased, for example, in relation to assurance around academic governance. And in city's case, as I said, that prompted the university to seek out independent academic expertise on its governing body. The position feels very different to me in Scotland, and the Scottish Funding Council, of course, holds universities to account for the delivery of required outcomes, and we're required to submit various lengthy reports to evidence our delivery. But the relationship with the regulator feels a lot more collaborative to me, and that might be because the sector is much smaller. I mean, there are only 19 universities in Scotland, but we do make an effort to engage. And the chairs of the Scottish universities, for example, meet together a couple of times a year. Um, and we always invite the chair of the Scottish Funding Council to our meetings. So, you know that informal engagement is, is very helpful to us in better understanding the political landscape. Um, and what's driving funding decisions. For example, I think the major shift in how governance in Scotland has come not so much from the regulatory environment as from the political environment. It's really that I think that led to the recent governance reforms.

AP: That's really helpful. And and it is interesting over time to just see how, as you say, the political and to some degree the funding environment makes changes or has an impact on the kind of the, the landscape for, for governance. And I wonder, Alison, obviously you've

seen this across the four parts of the UK. You've also seen it through some of your international work with advanced HE. I wondered if you had some reflections on how the regulatory environment has impacted governance over this last period?

AJ: Yes, absolutely. Aaron. And I think if I use my 2003, 2023 from there to here, what do I see? Uh, well, when I joined Hefce in 2003, it was very much a system of co-regulation of the system. So the regulator was concerned about the higher education system and the performance of the system as a whole. Um, its focus was on policy and funding, and we used both forms of regulation, what I call the hard regulation, the, the inspection and audit. But the soft regulation, which was investing in good practice, development, sharing and continuous improvement of the sector, and it was a system where autonomy was highly valued and the focus was on maintaining and allowing that autonomy to deliver the innovation and the innovation being received and seen would provide assurance. And that assurance gave birth to more autonomy, because it was seen to be delivering that virtual cycle of governance and regulation. The office for students, of course, is quite different. And, you know, there were good arguments about why the system needed to change because of the expansion of the sector, the allowing in of opening up to many different and alternative providers. And, you know, the previous system was very relationship focused as, as Janet has said, but the office system is data driven, minimum threshold driven, all concerned with student interest. And interestingly, I don't think I hear the word autonomy mentioned at all. Or if it is, it's very infrequently and we have seen regulatory burden increase.

It feels much more transactional. I feel, um, you know, in order to get this, we need you to do that to assure us. Um, so very different. But during that period, of course, you know, when I did join Hefce back in 2003, my friends said, oh my gosh, you've gone across to the dark side, Alison. And, um, and that really wasn't the case. And I think Hefce had already realised that regulatory burden was not a good thing for institutions. So I think it was from about 2006, 2005 oh 6 to 2014. There was a huge amount of effort and metrics put into reducing regulatory burden. There was something called the Herg, the Higher Education Regulation group, the burden of regulation. I can't remember their exact meaning, but all the focus was working with the sector to reduce the regulatory burden, to cut Hypothecated funding, to get it really focused on what we needed to do. And there's some real pay offs there, particularly in the way that, um, the funding capital investment capital, investment capital projects was funded, moving from a year on year project base to a five year strategy. This allowed for strategic planning. Um, it allowed for, you know, more autonomy and independence. So and I think it was the regulatory mindset over that period and how it's changed, which allowed or is disallowed certain things to happen. Um, I'll stop there for now.

AP: Yeah. I think they are important points to make. And we do need to remind ourselves that there, um, were a specific set of, um, a specific argument was put forward to create through the Higher Education and Research Act in 2017, a different sort of regulator. And because of the way certainly in England, the funding has shifted from a, uh, more of a centrally planned system with student number controls to a much more dynamic market

based system. And I think it was inevitable that the, the, the framework for regulation needed to to change. And I suppose actually, when we take a step back, it is worth reminding ourselves that we are still in the big scheme of things in the relatively early days of the office. And in that time there's been quite a lot of political turbulence, and there's also been the small matter of a of a pandemic and a regulatory framework that is still settling down and bedding in. And for all of those reasons, I think it would be reasonable to say that both the regulator and the regulated, uh, are calibrating how that relationship will will work. Um, I also think that there's, um, in the kind of, um, in the interests of kind of thinking through what's changed in the last few years. I think there's been some really positive changes to the regulatory environment in the last few years. Janet referred to her experience at Citi, where. Quality and oversight became a more prominent part of what the governing body did. And actually now I look back and think, how was it ever the case that governing bodies were so distant from matters of academic quality? I think there are questions about the skill set and the place that that is the line where that is drawn now.

But I think the idea that governing bodies are closer to that matter is clearly a good thing. I think the other thing that we've, um, that has generally been welcome, although sometimes it can feel uncomfortable, is there is a greater light shone on the sector actually right across the UK. But and that has also meant the light has been shone on governing bodies. And we've occasionally had to be clearer to justify decisions that we've taken. I think the final thing I would say is the environment in which we are operating in is a tougher one, and that means that governance comes under pressure a bit more, and almost irrespective of what our regulatory environment would be, when money is tight and political pressure of from any party is on, I think it means that the scrutiny we come under is that bit deeper. And so I think we're all to some degree under the spotlight. I figured another good, um, element for us to, to, to reflect on, and it has been touched on in our discussions so far, is the demography of of governance and of our governing bodies. And to take us into that conversation, I want to quote from a piece of work published by Advance HE in 2022. It's a report which is available entitled Diversity of Governors in Higher Education as I say, published in 2022, it uses data collected by Hesa from the academic year 2021. There's always a slightly necessary time lag in collecting the data and then analyzing it, but it is the most up to date data that we've got.

And I'm going to share four statistics, if I may, to inform our discussion. So the data published in 2022 suggests that female governors now make up 42.4% of governing bodies, and that figure was as low as the 30s over ten years ago. So there's been a steady upward move, not yet at 50%, but very much heading in the right direction. And over a third of higher education governing institutions in higher education institutions in the UK have parity between men and women governors. Um, so that's a third of governing bodies do that. And perhaps less positive, um, one quarter of higher education providers did not, um, uh, say that they had someone from an ethnic minority background on their governing body. Um, there's some quite uneven statistics by different category of ethnic backgrounds. So I think that is one area that would be interesting to explore. And 5.8% of governors disclose a

disability, 54% of governors are over the age of 56. So there's four, I suppose, interesting statistics about gender, ethnicity, disability and age that give us a little bit of context for, um, sector that we're operating in, and I wonder if I might throw the question out. Um, clearly this is an area that advanced high have been very active in, not just in the governance space, but actually more widely in our work across the sector. And, Alison, I wondered if you had any reflections on, um, the state of play with regard to demography and diversity of governing bodies?

AJ: I see a huge amount of effort go into increasing the diversity of boards. Um, we we long ago won the argument that this was an important thing to do. The question which chairs of governing bodies, um, say, how do we do this? How help us with the how, please. And and I think we can go back to regulation here because I remember I think it was the 2014 Hefce strategy had a target of 40% women on governing bodies. You know, when your regulator sets a target like that. And I know all the arguments for and against targets. Et cetera. Et cetera. But they they were courageous enough to do that. So it's very pleasing to see that the women, you know, arrived at 42%. I'm not altogether convinced that that might have happened without it. You know, what gets measured gets done. The old adage is very, very true. We are seeing much more diversity. When I speak to governing bodies, I'm generally very impressed at the mix I see. Um, I think it is difficult. I think the pipeline still needs to be developed, particularly for ethnic minority groups. But I do see as well that matrices, you know, skills, matrices are practical. You know, it's the way university boards recruit. Now the old tap somebody on the shoulder. I we all know people who would be good and we encourage them to apply. But I do see a very different approach to recruitment and selection now. And it's still a journey. It's still very much a journey.

AP: Thanks Alison, and Janet, I wonder if you had any reflections on this question of diversity as well.

JL: Well, it's a really interesting one, Aaron. I was recruited to the council at city by an executive search firm, and they were looking for a lawyer to replace a departing council member who was also a city lawyer. I then became chair of the Governance and Nominations Committee, and I continued to use executive search and recruited against the Skills Matrix. I don't know how typical that was at the time. I think city were quite progressive in their governance. But but by contrast, when I was recruited to the court at Edinburgh, they were using executive search for the first time for my appointment. That's because, as Alison's commented, the the senior lay member role is an elected role. So it took a bit of selling. Um, um, and, and I've continued that approach. Um, I've continued to use the skills matrix, uh, to try and broaden the diversity of membership of court. Um, but I was quite surprised to discover that my court was completely white. Uh, and it has taken me three rounds of executive search with three different, um, search firms to change that. Um, and also use of the advanced toolkit which, which I found really helpful. Um, another thing that we're doing is for the past three years, um, we've taken part in the governor apprenticeship scheme. Uh, that's run by lava. Um, and I think that's really helpful in providing younger

potential governors with a year's experience on a university court to add to their CV. Uh, and I know that some apprentices have moved on to permanent governor roles. Um, on conclusion of their apprenticeship, which I think is fantastic because, um, there's a real problem with recruiting younger people, um, onto university courts. Um, who have, you know, the skills and experience to make a meaningful contribution. Um, but also have sufficient agency over their own time, um, to be able to spend the time, particularly if they're also on a subcommittee. Um, it can be. It can be, as we all know, quite onerous in terms of time commitment.

AP: I think it's right that from your remarks and, and actually the, the examples that you offered, Janet, that the, the argument is one about the importance, as Alison said, and so the conversation rightly has to move on to the so what what can we do? How can how can we be helped or how can we help? Um, you rightly refer to, um, the use of executive search firms or head hunters. The use of the board apprenticeship scheme. And there are a few different schemes out there which have really helped. I think also thinking creatively about committee co-option, sometimes committee routes can be a good way to test out individuals, and I mean that in both ways. I think that's allowing the institution to test out someone for a committee first, perhaps before the board, but also it will allow the the member of the committee to actually work out whether this is the right sector or the right institution for them as well, to decide whether they'd want to apply for a board role. Um, in future. Of course, there are the implications, both positive and negatively, of more elected places. And you earlier referred to by having more places elected and there are more designated places on the Scottish courts because of the way that the legislation sits, that can sometimes actually be counterproductive to governance, unless you think carefully about how you nurture candidates through an election process. I suppose there's also a related point around remuneration. It is still a minority endeavour across UK universities, but there are a growing number, albeit from a relatively small base, particularly, um, for, for chairs. Um, and I think that's part of the conversation as well. Um, not offering one way or the other, but I think it is something that institutions should actively consider and then arrive at the right decision for them. I wondered, particularly on this remuneration point, whether each of you or any either of you had a particular view on whether that can be a helpful, um, means to try and improve board diversity.

JL: Um, well, it's a it's a really good question. My, my role is, in fact remunerated and I apply my remuneration to advance Edinburgh scholarships. Um, but, uh, I think it does help. I think it should help. Um, and it is a, a time consuming role, but, you know, all university court or council roles are time consuming. Um, my sense is that increasingly they are burdensome and it's more and more difficult, um, to get people from more diverse backgrounds, um, who have who are not the sort of typically, um, retired um, cohort, um, to, to get involved in university governance. So I can see the arguments for paid boards. I can also see, um, the other side of the argument. Alison, what do you think?

AJ: I can see both sides of the argument as well, Janet. Um, I think what remuneration does do, though, it makes the the board members more accountable. Um, having said that, I see totally committed people. Once people have decided they're going to do this, I don't really see an issue with commitment. Um, it it it could be argued it changes the nature of the relationship with the institution as well as a paid member. Whereas a non paid member, you are completely independent and you're not in anybody's pay. Um, I can see that it maybe would help, uh, you know, a younger, um, you know, uh, membership of the board and yeah, I can I can see both sides of this argument.

And, you know, frankly, I'm not doing it for the money. And I think when I talk to people, no, I don't think I hear people say they're doing it to give something back. I hear that much more than, um, I very recently heard of one person saying, well, if it's not remunerated, I'm not doing it. That is far less than what I hear on the other side of the coin, but I wouldn't be surprised if it comes. All I would say is, you know, universities are in really under dire financial pressure in a way that they never have been before. So do we really need it at a time when universities are incredibly pressed and we've got, you know, students to consider and their needs and how we can fully support them. So tricky question. I think there's a slight shift. The people I don't know, I think it's probably about 5050 still, but I don't think it was 5050 before it was more sort of 4060. So it may be something in the future, but we need to look at, um, the affordability as well. I think the benefits really do have to outweigh the costs.

AP: And I think made even more complicated, complex by the fact that the vast majority of UK universities are charities as well. And, you know, even if it's even if we're talking about 20 or £25,000, uh, you know, for the charity to account for, uh, money spent in that way, it's still charitable funds and does need to be considered in that, in that matter. Um, I'm conscious of the fact that, you know, we've come through a number of, of topics. What we'll do is just wrap the conversation up at this point. Um, as I say, this is the first in a series of five podcasts that we've got planned. Future podcasts will be coming up soon, of course. Want to say particular thank you to Alison and Janet for giving up their time today. And of course, we'd encourage you to provide us with any feedback. This is the first time we're doing a podcast on governance, so any views or thoughts really welcome. And please also check out our web pages. We've got lots of resources freely available to our members about the support that we provide to individual governors and to governing bodies, uh, more generally, through our governor development activity, through our member benefits, and of course, through our governance effectiveness reviews as well. Thanks again for your time and thanks for listening. Goodbye.



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