

Regulations for the Appointment of the Chair of Court

1. The following procedures and rules make provision for the appointment the Senior Lay Member, known as the Chair of Court, of Abertay University.
2. In the case of doubt, the appropriate provisions of the Higher Education Governance (Scotland) Act 2016 (the Act) and the University's Order of Council take precedence over these regulations.
3. The appointment of the Chair is conducted through three stages:
 - (i) Advertisement, application and interview;
 - (ii) Election; and
 - (iii) Appointment.
4. The following regulations will be the basis for the drafting of further information and communications regarding the process for appointment of the Chair of Court to students, staff, potential applicants, and candidates.

Eligibility

5. In keeping with the requirement for the Chair of Court to be independent and to be perceived to be so, students of the University, the Principal and members of staff of the University are not eligible to be Chair of Court.
6. No former member of staff or student of the University is eligible to be appointed until a period of four years has elapsed from the date, they ceased to be a student or member of staff.
7. Current, and former, independent members of Court are eligible to be appointed as Chair of Court, but the role may not be held simultaneously with another role on Court (including as an independent member of Court).
8. Members of Court are charity trustees and therefore applicants must be eligible to hold office as a charity trustee in terms of the Charities and Trustee Investment (Scotland) Act 2005 as determined by the Office of the Scottish Charity Regulator.
9. The Chair of Court may not be in substantive employment at another higher education institution while undertaking the role.
10. The Chair of Court may hold membership of a political party or organisation; however, the Chair may not hold an elected political office position during the term of their appointment.

Period of Office

11. Appointment to the position is for a period of three years and they may be re-appointed for a further and final period of three years by agreement of the Court on the recommendation of the Governance and Nominations Committee, without recourse to a further election.
12. If the Chair of Court is a member of the Governance and Nominations Committee, they will withdraw from participation in any discussion about the reappointment process.
13. Any recommendation to re-appoint the Chair of Court will be informed by the following considerations:
 - (a) The length of time the Chair of Court 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 Chair of Court continues to meet the criteria which applied at the time of their appointment as the Chair;
 - (c) Assessment of performance in the role to date; and,
 - (d) Any other rules made by the Court from time to time.

Appointment Committee

14. Court must (in terms of section 3) of the Act establish an Appointment Committee to fill any vacancy for Chair of Court. The membership of the Appointment Committee will include at least one current student and one current member of staff of the University. Any incumbent Chair of Court will not be a member of the Appointment Committee or participate in the appointment process. No member of the Appointment Committee may apply for the position. The Court will determine the further membership of the Appointment Committee, to have, as far as possible, an appropriate balance of diversity.
15. The Vice-Chair of Court will chair the Appointment Committee unless they have a conflict, in which case Court will appoint one of its independent lay members as Chair of the Appointment Committee.
16. Members of the Committee may not endorse candidates in the election.
17. The Appointment Committee will have responsibility for:
 - (a) devising the relevant criteria for appointment to the role of Chair of Court. These should include: the availability, skills, knowledge and experience considered by the Appointment 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) promotion and advertisement of the vacancy, in a manner suitable for bringing the vacancy to the attention of a broad range of persons; and
- (d) the publication of a report providing an overview of the appointment process, including information on the number of applicants, and, so far as consent to disclosure has been received from the applicants and any confidentiality concerns, the characteristics listed in S149(7) of the Equality Act 2010 in relation to applicants, those invited to attend interview, and the candidates considered entitled to stand in the election thereafter.

18. To meet the requirements of the Act, any advert for the position must include:

- the functions exercisable by the Chair,
- a summary of the relevant criteria with respect to the position and guidance on how more information about the relevant criteria can be obtained, and
- an explanation of-
 - (i) the process for filling the position;
 - (ii) how to apply for the position;
 - (iii) that reimbursement is offered of expenses incurred in connection with attending an interview and participating in an election for the position;
 - (iv) that remuneration and allowances are available in connection with the holding of the position.

19. The Appointment Committee will determine the format and process for applications, including any accompanying documentation that applicants may be required to submit.

20. The Appointment Committee may decide to engage the services of an external search agency to assist it in discharging its responsibilities. The Appointment Committee must, however, take all decisions on whether an application received meets the relevant criteria and ensure any consultants engaged in the process operate within a clear remit. The role of an external search agency engaged in this way is to provide the Committee with information to enable it to better reach its own decision.

21. The Appointment Committee will consider the applications against the criteria for appointment and will reach a decision on which of the applicants appear to meet those criteria. The Appointment Committee will then arrange to interview those applicants. If the applicant satisfies the Committee at the interview that they meet the relevant criteria, the applicant is entitled to stand as a candidate in an election for the position.

Election Rules

22. Where an applicant is deemed by the Appointment Committee to meet the criteria for appointment, the applicant will be entitled to stand as a candidate in an election to determine the successful applicant, and an election will be arranged. If only one candidate meets the criteria for election or the number of candidates in the election, either prior to or during the process, subsequently falls to below two then, in accordance with the Act, the election must 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.
23. The University Secretary will be the Returning Officer for the election. If for any reason the University Secretary is unavailable, the Court will appoint a Returning Officer. The Returning Officer will be responsible to the Appointment Committee for managing the electoral process, including
 - the arrangements for voting and provision of an appropriate electronic voting system;
 - confirmation of the electorate and identification of an appropriate qualifying date;
 - the announcement of candidates and the publication of their election statements;
 - ensuring the proper applications of the election rules;
 - ensuring the proper application of the campaign rules and ensuring that election materials meet those rules;
 - considering complaints raised in relation to the conduct of the campaign and the election itself, imposing sanctions as appropriate.
24. In accordance with the Act, the following persons are entitled to vote in an election:
 - (a) the members of the Court;
 - (b) the students of the University, defined as students fully registered on the qualifying date for the election. Students given temporary registration will not be eligible to vote;
 - (c) the staff of the University, defined as any individual who has a salaried contract of employment with the University on the qualifying date for the election. Any individuals engaged on temporary services, and honorary contracts are not entitled to vote.
25. No individual is entitled to cast more than one vote in the election, irrespective of whether they fall into more than one category. Each vote cast in the election carries equal weight.

26. The election will be conducted through electronic voting via a secure online voting system which may be administered by a third party on the University's behalf. Each member of the electorate shall be issued by e-mail with a notice of the ballot, a link to the election statements of the candidates and instructions on how to cast their vote. The information contained on the online ballot relating to each candidate shall include first/given name (or name known by) and surname/family name only.
27. Where a member of the electorate is unable to vote electronically, the University will, if requested, make reasonable alternative arrangements for the elector to have access to facilities to cast their vote, in a manner and timeframe approved by the Returning Officer.
28. The Appointment Committee will determine the dates of the election period. These will be during recognised term times and outwith examination periods. The voting period for the election will be preceded by a period of campaigning. The period from announcement of candidates to close of voting will ordinarily be expected to take no longer than 15 working days, subject to the Appointment Committee's decision on dates. An example of an appropriate timetable might be as follows:

Day	Process
Day 1:	Public Announcement of candidates and circulation of election statements to the electorate
Day 6:	Open Meeting organised by the University
Day 7:	09:00 – online voting opens
Day 14:	17:00 – online voting closes
Day 15:	Declaration of Result

29. 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 ruling at the time, the Appointment Committee may agree to extend the said voting periods as it considers necessary.
30. As part of the campaign, candidates will be entitled to the following:
 - (a) Attendance at an 'Open Meeting' organised by the University before an audience of staff, students, and Court members, at which candidates will be expected to address the audience and answer questions from the audience.
 - (b) Distribution by the University of an election statement, using the agreed template, of no more than 500 words by email to all electors. This may include a photograph of the candidate. Candidates will be required to submit their election statement prior to Day 1 of the election period. This statement will also be available for review by electors during the electronic voting process.

(c) Distribution of a short curriculum vitae/biography to accompany the statement. Candidates will be required to submit this prior to Day 1 of the election period.

31. The election statement must be written in such a way as to be consistent with the responsibilities, skills, duties, and limitations of the role of the Chair as set out in the role description. The Returning Officer will determine whether election material meets these rules.

32. The distribution of any other campaign materials beyond that set out above, whether in electronic or hard-copy format, is not permitted.

33. The 'Open Meeting' will normally be hosted by the Chair of the Appointment Committee or the Returning Officer and every effort will be made to ensure the venue for the 'Open Meeting' is accessible. Where circumstances prevent an 'in person' event, the 'Open Meeting' can be conducted online. The University will record the Open Meeting and make this available to view online during the election period.

34. Candidates will not have access to the electorate other than via i) the election statement distributed by the University on behalf of the candidates; and ii) the 'Open Meeting'. Candidates are not permitted access to the email addresses of electors.

35. Candidates shall not seek official endorsements by any organisation, or by individuals representing or perceived to be representing, any organisation are not permitted. Specifically, this includes endorsements by the University or by any of its constituent parts (e.g. Faculties or Directorates); by any of the recognised campus trade unions or similar organizations; by the Students' Association; or by members of the Court.

36. The discussion of candidates on social media is permitted by individual electors, provided that it does not contravene regulation 35 above. Such discussion must be respectful and in keeping with the role of Chair.

37. The results will be declared following the close of the voting period at a time determined by the Returning Officer and published to the electors and candidates. Candidates will be informed prior to the publication of the results.

38. The candidate who secures a simple majority of the total number of votes cast will be declared the winner. In the event of a tie, the election will be decided by the drawing of names from a sealed bag by the Returning Officer.

39. The winning candidate will be appointed to the position of Chair of Court by the Court.

40. Any complaint about the conduct of the election, any allegation of infringement of these rules or any allegation of misconduct by a candidate or one of their agents or supporters should be brought as soon as possible to the attention of the Returning Officer, who will investigate the matter.

41. Having investigated the matter, the Returning Officer will make a recommendation to the Appointment Committee on whether the complaint or allegation should be

upheld. If the Appointment Committee decides that the complaint or allegation is upheld, an appropriate sanction may be imposed on the offending party. The sanctions could include, but are not limited to, the instigation of disciplinary proceedings against students or staff, or the removal of a candidate from the poll. The returning officer may also determine that the election should be suspended pending further investigation, abandoned, or rescheduled.

42. In the event that a candidate contests the results of the election, a case must be submitted within 10 working days of the declaration of the results. Where a case is submitted within the timeframe, the returning officer will arrange for a preliminary assessment of the case to determine whether there are grounds for an investigation. If as a result the Returning Officer determines that there are grounds, they will engage an independent solicitor or other professional person from outside the University to carry out a full investigation and report to the returning officer. On the basis of the report, the Returning Officer may decide to take no further action or may decide to declare the results of the election null and void and order a new election.
43. Any appeals against the decision of the Returning Officer will be considered in the first instance by the Chair of the Appointment Committee who may rule on the appeal or choose to refer the matter for decision by the Appointment Committee. Such appeals must be submitted in writing to the Chair 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 Appointment Committee will be final and there is no further route of appeal.

Remuneration and Terms of Appointment

44. In accordance with the Act, the person appointed may request remuneration for their service as Chair of Court. Court has delegated responsibility to the Remuneration Committee to agree the remuneration of the Chair of Court and to review on an annual basis.
45. The person elected will be subject to the Court's terms and conditions of appointment, and should regulate their conduct in accordance with the highest standards of governance. 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. In accordance with the Higher Education Governance (Scotland) Act 2016 (and the Scottish Code of Good HE Governance 2023) a Policy and Procedure for the Removal of Members Court (including the Chair) is in place to

address circumstances where a member has materially breached their conditions of appointment.

Reporting

46. Following completion of the appointment of the Chair according to the process set out above, the Committee will produce and make publicly available a report in accordance with and including the information prescribed by section 3(3) of the Act. It would ordinarily be expected that report will be produced within 3 months of the appointment of a Chair.

Related Policy Documents and Supporting Documents

Legislation	The Abertay University (Scotland) Order of Council 2019 ; Higher Education Governance (Scotland) Act 2016
Strategy	Strategy 2025-30 Abertay University
Policy	Court Statement of Primary Responsibilities ; Scheme of Delegation ; The Role of the Vice-Chair of Court ; The Role of the Principal and Vice-Chancellor ; The Role of the Secretary to Court ; The Role of the Committee Chair; University Court Standing Orders
Procedures	N/A
Guidelines	Scottish Code for Good Higher Education Governance 2023
Local Protocol	N/A
Forms	N/A

Additional information

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