



Scottish Funding Council
Comhairle Maoineachaidh na h-Alba

Payment to the former Principal of the University of Aberdeen

A review by the Scottish Funding Council



February 2020

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We are the national, strategic body that funds further and higher education and research in Scotland.

- We invest in education that is accessible to learners from all backgrounds, gives them a high-quality learning experience, supports them to succeed in their studies, and equips them to flourish in employment, further study and fulfilling lives.
- We invest in excellent research and innovation that adds to current knowledge, delivers economic and societal value, enhances Scotland's international reputation and attractiveness, and makes the world around us prosperous, healthier and more sustainable
- We ensure our autonomous colleges, universities and specialist institutions form part of a successful, world-leading, coherent and sustainable system of education that responds effectively to the future needs of learners and the skills needs of the economy and society, enhances our rich cultural life, and strengthens Scotland's international connections.
- We will be an excellent, outcome-focused public body that provides leadership, inspires confidence, models collaborative working, is committed to continuous improvement, and stewards public resources well.



**WE INVEST
£1.8BN
IN SCOTLAND'S
26 COLLEGES,
17 UNIVERSITIES AND
2 SMALL, SPECIALIST
INSTITUTIONS**



**WE SUPPORT ALMOST
500,000
STUDENTS EACH YEAR**

**OUR RESEARCH
EXCELLENCE GRANT
HELPS TO GENERATE
ALMOST**

**£800M
OF ADDITIONAL
RESEARCH
INCOME**



**OVER THE PAST 10 YEARS
WE HAVE INVESTED **£1.8BN**
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Payment to the former Principal of the University of Aberdeen

A review by the Scottish Funding Council

Summary

The Scottish Funding Council (SFC) is the national, strategic body that funds further and higher education and research in Scotland. Our main statutory duties and powers come from the Further and Higher Education (Scotland) Act 2005. Universities that receive public funds must meet the terms and conditions set out in accepted offers of grant, Outcome Agreements, and a Financial Memorandum (which also includes compliance with the relevant Scottish Code of Good Higher Education Governance¹). In the round, these require universities to make best use of public funds and to exercise good governance. SFC can consider the clawback of grant or reduce future funding if these terms and conditions are not met.

We decided to review the payment made to the former Principal of the University of Aberdeen because the Financial Statements did not appear to accord with our understanding of the Principal's retirement and we were not satisfied with the University's response to our initial enquiries. The former Principal's total remuneration disclosed in the Financial Statements for 2017-18 was £601,000. In addition, a payment of £60,000 was made in relation to the former Principal, for "outplacement support".

Our review was conducted by an SFC Review Committee, including an independent external member, and involved liaison with the Office of the Scottish Charity Regulator and the examination of over 500 pieces of evidence. The University has been open and responsive over the course of this formal review.

Our review concludes that:

- 1) The University approved a settlement agreement with the former Principal without a documented assessment of value for money and it could have identified better-value options.
- 2) While the main "heads of terms" for the settlement agreement were approved by the University's Remuneration Committee, there were flaws in the conduct of that Committee and the University Court did not receive sufficient information to be assured of due process or to protect the University's interests.
- 3) The University's Remuneration Committee was not provided with specific written advice about its value for money responsibilities.

¹ The applicable version of the Code was that published in 2013: <https://www.scottishuniversitygovernance.ac.uk/the-2013-code-2/> It has since been updated: <https://www.scottishuniversitygovernance.ac.uk/2017-code/>

- 4) The University did not fully consider or meet the requirements of our Financial Memorandum in relation to severance payments.
- 5) The payments made under the settlement agreement were properly disclosed in the 2017-18 Financial Statements, but in our view an additional payment of £60,000 for “outplacement support” should also have been disclosed.
- 6) The University could not provide evidence that proper authorisation procedures had been followed in securing this outplacement support.

The SFC Board has, therefore, determined that the following actions should be taken:

- The University is notified that it has breached Financial Memorandum requirements.
- The University is required to undertake an externally-facilitated review of its governance procedures and culture. It will provide assurance to SFC about the actions and outcomes resulting from its review.
- The University is required to repay grant of £119,000, which represents an appropriate proportion of the payments examined in this review.

1. Introduction

- 1.1. The Scottish Funding Council (SFC) is the national, strategic body that funds further and higher education and research in Scotland. Our main statutory duties and powers come from the Further and Higher Education (Scotland) Act 2005. Universities that receive public funds must meet the terms and conditions set out in accepted offers of grant, Outcome Agreements, and a Financial Memorandum (which also includes adherence to the Scottish Code of Good Higher Education Governance). In the round, these require universities to make best use of public funds and to exercise good governance. SFC can consider the clawback of grant or reduce future funding if these terms and conditions are not met.
- 1.2. We decided to review the payment made to the former Principal of the University of Aberdeen because the Financial Statements did not appear to accord with our understanding of the Principal's retirement and we were not satisfied with the University's response to our initial enquiries.

2. Background

2017-18 financial statements

- 2.1. The 2017-18 Financial Statements of the University of Aberdeen include the following:
- 2.2. "In August 2017, Professor Sir Ian Diamond intimated his intention to retire to allow the University to begin the process of appointing a successor. Due to the considerable time required to complete the recruitment process, it was agreed that Professor Diamond would remain in office until his successor was appointed and in post. Professor Diamond formally gave his notice to retire in July 2018, he was entitled to a payment of £282,000 in respect of a contractual 12 month notice period. A further payment of £7,000 was in respect of related expenses."²
- 2.3. The Principal's total remuneration disclosed for 2017-18 was £601,000, consisting of salary of £282,000, pension contributions to the University Superannuation Scheme (USS) of £30,000 and contractual notice period payment and related expenses of £289,000. (Although not all of the additional payments were made before 31 July 2018, the University became liable for the payments before this date and so they were included within the total remuneration for the 2017-18 financial year.)

² Staff Costs: Note 7, page 79

2.4. The Principal's remuneration in 2017-18, including the additional payments, was disclosed as 15 times the median remuneration of the University's workforce. The accounts describe the payment as 'in respect of a contractual 12 month notice period' and this was consequent to 'Professor Diamond formally gave his notice to retire in July 2018.'

Retirement

2.5. Although the accounts stated that the Principal gave notice to retire in July 2018, SFC was advised in August 2017 of his intention to retire and there was media coverage to the same effect³. In the course of this review we established that the date of 'formal' notice to retire was defined in a settlement agreement as being "the date the successortakes up post assuming the responsibilities and duties of the University's Principal". That is, on the last day the Principal was the formal Principal of the University and immediately preceding a 12 month period of 'gardening leave'.

2.6. We also noted documentary evidence that the Principal proposed initial terms in relation to his retirement and that the terms considered by the Remuneration Committee were as a result of a period of negotiation. The Principal's right to a 12 month contractual payment arose as a result of these negotiations, with the settlement agreement defining his last day acting as Principal as described above.

3. Initial queries

3.1. SFC wrote to the University on 18 January 2019 seeking clarification of issues surrounding the payment. We received a reply dated 31 January from the University's Vice-Chancellor and Principal.

3.2. Following a review of the material supplied by the University, SFC determined that a formal review should be undertaken to examine if the circumstances and decisions taken in relation to the payment to its former Principal were in compliance with SFC's [Financial Memorandum with Higher Education Institutions](#)⁴ and with good practice in relation to corporate governance as detailed in the [2013 Scottish Code of Good Higher Education Governance](#)⁵.

³ Aberdeen Evening Express, 25 August 2017 (<https://www.eveningexpress.co.uk/fp/news/local/outstanding-principal-to-retire-from-uni-post/>) and BBC news website, 24 August 2017 (<https://www.bbc.co.uk/news/uk-scotland-north-east-orkney-shetland-41042369>).

⁴

http://www.sfc.ac.uk/web/FILES/Guidance_Governance/Financial_Memorandum_with_higher_education_institution_s_-_1_December_2014.pdf

⁵ <https://www.scottishuniversitygovernance.ac.uk/the-2013-code-2/>

4. Review Committee

Establishment

4.1. At its meeting on 25 June 2019, the Council agreed to establish a Review Committee for the purposes of conducting a review into the University of Aberdeen's (the University's) compliance with the Council's terms and conditions of grant in relation to a payment to its former Principal. The remit and standing orders were approved by the Council at its meeting on 25 June 2019.

Membership

4.2. The membership of the Committee was:

- Karen Watt Chief Executive Officer (Chair of the Committee)
- Martin Fairbairn Chief Operating Officer
- Ali Jarvis External member

Remit

4.3. The specific duties of the Review Committee agreed by the Council Board are listed below:

- The Review Committee will conduct the review of the University's compliance with the Council's terms and conditions of grant (including as set out in the institution's outcome agreement and in the Financial Memorandum).
- At the conclusion of the review the Committee will produce a draft report with its:
 - Findings of fact.
 - Recommendations to the Council board as to whether or not the institution has complied with the Council's terms and conditions of grant.
 - Recommendations to the Council board on any sanctions to be applied, including repayment of grant.
- The Committee will share its factual findings with the University's Principal and Senior Governor and any other key organisations and individuals the Committee believes is appropriate, to provide them with an opportunity to comment on the factual findings before the report is finalised by the Committee.
- The Committee will then finalise its report and confirm its recommendations.

- The Committee reserves the right to make recommendations to the Council board on improvements to sector governance, if the Committee considers it appropriate to do so.

5. Liaison with the Office of the Scottish Charity Regulator (OSCR)

- 5.1. All universities funded by SFC are also registered charities. A [Joint Working Agreement \(JWA\)](#)⁶ is in place between SFC and OSCR. The purpose is to ensure effective liaison, where appropriate, in the development of guidance for the sector; and set out the circumstances in which OSCR and SFC will share information and collaborate. In accordance with Section 3 of the JWA, SFC and OSCR agreed to share information in relation to the review.
- 5.2. After reviewing the information held to date OSCR determined that it should undertake its own inquiry. The purpose of the two reviews is distinct and related to the differing powers and responsibilities of each agency. The SFC's purpose in undertaking a review is set out in the remit at paragraph 4.3 (above). OSCR is undertaking an inquiry using its statutory powers as the regulator of the charitable sector and in relation to the duties and responsibilities of charity Trustees.
- 5.3. After consultation between SFC and OSCR, OSCR wrote to the University with a request for documents in relation to the departure of the former Principal and advised that such information would be shared with SFC. SFC received the University's response on 26 August 2019.

6. Collection and collation of documentation

- 6.1. The University's Director of Planning (who had not been involved in the events under review) wrote to all those who were members of University Court in academic years 2016-17, 2017-18 and 2018-19 to bring the letters from OSCR and the SFC to their attention and to inform them that the reviews were to take place. An individual follow-up email was sent to relevant members of University Court in academic years (AYs) 2016-17, 2017-18 and 2018-19 to request information pertaining to the review. All members of University Court in 2016-17, 2017-18 and 2018-19 were contacted for information, with four exceptions (on the basis that they were appointed to the University Court after the former Principal's retirement date of 31 July 2018 and were thereby deemed to hold no information relevant to the review). A total of 40 Court members were contacted and 35 responses were received by the University.
- 6.2. An individual email was sent to all those who were members of the University's Senior Management Team (SMT) in AYs 2016-17, 2017-18 or 2018-19, to inform them

⁶ <https://www.oscr.org.uk/media/3145/2016-10-10-sfc-policy-statement-review.pdf>

of the review and request information pertaining to the review. Six members of SMT were not contacted as they were either not in the University's employment in the period under review or had been contacted as members of Court. All those members of SMT who were contacted responded to the request.

- 6.3. All evidence collected from Court members, senior members of staff and from University records which addressed seven main areas listed in the letter of 10 July issued by OSCR was collated with an index consisting of 19 pages and 503 numbered entries. We should like to thank the University of Aberdeen for the co-operation and assistance afforded us during the conduct of this review and in particular the University's Director of Planning who collated and referenced a considerable amount of documentation.
- 6.4. The documentation starts in December 2016, eight months before the settlement agreement between the University and the Principal. These documents were included as they refer to events that had a bearing on the Principal's decision to announce his intention to retire. The narrative extended to summer 2019 in order to include all discussion at Court and Court committees about the remuneration received by the former Principal as reported in the University's 2018 Accounts.

7. Examination of documentation

- 7.1. SFC examined all the documentation received to understand the sequence of events, the processes undertaken, the nature of decisions taken, and the governance oversight exerted in relation to the departure of the former Principal. This evidence was assessed against relevant SFC governance and funding requirements and expectations. The relevant SFC requirements are contained within the Financial Memorandum which itself requires compliance with the 2013 Scottish Code of Good Higher Education Governance. The review focused on the University and the way in which policies and procedures were followed, rather than on any particular individual.

8. Issues addressed by the SFC Review Committee

Did the University properly consider Value for Money in relation to the additional payment to the Principal?

- 8.1. Part 1 Paragraph 17 of the Financial Memorandum states ‘The institution strives to achieve value for money and is economical, efficient and effective in its use of public funding’ (see Annex A). There are a number of processes which are generally expected to be in place to comply with this requirement, including financial and procurement regulations. Where large amounts of expenditure are incurred we would expect to see the development of a business case stating the objectives to be achieved together with an option appraisal detailing and comparing the costs and benefits of several options. The preferred option, having the optimal balance between cost and benefits, should be identified.
- 8.2. We found no evidence that a formal documented business case, including an appraisal of different options, was made in relation to the financial arrangements agreed with the former Principal. The payment was made under a settlement agreement, negotiated between the Principal and the University, represented by the previous Senior Governor and the Chair of the Remuneration Committee, in close consultation with some other non-executive governors and advised by senior managers. The relevant minutes of the Remuneration Committee do not reveal any formal documented option appraisal with a clear examination of the relative costs and benefits.
- 8.3. We saw evidence (for example, an email from the Chair of the Remuneration Committee to three other members of the Committee, the University Secretary and the Director of HR) that one driver of the agreement made with the Principal was to secure continuity in the operation of the Senior Management Team through to a successor Principal being appointed and in place. However, we also saw emails (for example, an email from the University Secretary to four members of the Remuneration Committee and the Director of HR) which show the Remuneration Committee was aware that the same objectives could have been achieved at a considerably reduced cost to the University.
- 8.4. We saw documentation which indicates that, during the negotiations with the former Principal concerning his departure, management arrangements were being put in place for the Principal to move to an external role with internal senior management being led by a Senior Vice-Principal, who had an official start date of 1 September 2017. One of the ‘Heads of Terms’ agreed at the Remuneration Committee held on 29 July 2017 stated “Until ID successor is appointed MG [Senior Vice-Principal] will host monthly meetings with SMT and VPs.” It appears that internal senior management matters were no longer within Professor Diamond’s full responsibilities once the settlement agreement was signed, though he kept the title of ‘Principal’ and the role of titular head of the institution, along with his full salary until his ‘formal’

notice was given. We consider this arrangement to have further implications for the value for money obtained by the University.

8.5. We were advised by the University, in its initial response dated 31 January 2019, that during his period of 'garden leave' Professor Diamond "was available to provide support to the University if required". We are unaware of any advice being sought from the former Principal following his move to gardening leave on 1 August 2018.

8.6. We conclude that:

- In approving the terms of the settlement agreement, there was no documented assessment of value for money.
- There is evidence that, if a proper and documented assessment had been undertaken, better-value options would have been identified.
- By defining the former Principal's 'formal' notice date as the date immediately preceding both the successor Principal taking up his post and the former Principal moving to a 12 month period of 'gardening leave', the University incurred the cost of two Principals over the 2018-19 financial year. In addition, over the 2017-18 financial year, the Principal received his full salary while having significantly fewer duties and responsibilities than those constituting the full role of Principal, and we have seen no evidence that the value for money consequences of that arrangement were assessed.

Were the payments approved by the Remuneration Committee and were they reported to Court?

8.7. Good practice in relation to the responsibilities and conduct of remuneration committees is set out on page 30 of the 2013 Scottish Code of Good Higher Education Governance. It includes the statement that "The remuneration committee's reports to the governing body should provide sufficient detail of the broad criteria and policies against which decisions have been made".

8.8. The remit of the University of Aberdeen's Remuneration Committee is given at Annex B. The minutes of a meeting of the Remuneration Committee which took place on the morning of Saturday 29 July 2017 (though they bear the date 29 July 2019) confirm that the Committee agreed the 'Heads of Terms' of an agreement with the former Principal. Though the meeting was quorate we noted the following:

- The meeting was called for the morning of Saturday 29 July late on the evening of Friday 28 July. Though there is no specific requirement about the notice given for meetings of committees, it is a matter of good practice that a reasonable notice period is given to facilitate maximum attendance, and allow members to study relevant papers and to consider all the relevant issues.

- We saw evidence that efforts were made to telephone the President of the Aberdeen University Students Association (AUSA), without success. In the email calling the meeting the AUSA President was not included on the distribution list. We found no evidence that any consultations were undertaken with student representatives on this issue (although that was not a requirement of the 2013 Code of Good Higher Education Governance at that time).
- At the time of the meeting the staff position on the Remuneration Committee was vacant. We saw no evidence that any consultations were undertaken with staff representatives on this issue (although that was not a requirement of the 2013 Code of Good Higher Education Governance at that time).
- We examined the minutes and papers of the Court meeting of 4 October 2017, which was the first meeting after the meeting of the Remuneration Committee of 29 July 2017. Though the minutes show a report from the Remuneration Committee concerning its meeting on 26 June 2017, no reference is made to the meeting on 29 July 2017 and we saw no evidence that the details of what was agreed concerning the settlement with the former Principal being formally communicated to the governing body of the University. (See page 30 the 2013 Scottish Code of Good Higher Education Governance.)

8.9. We conclude that:

- The ‘Heads of Terms’ forming the main terms of the settlement agreement with the former Principal were approved by the Remuneration Committee.
- As noted at paragraph 8.8, there were omissions in relation to calling the meeting of the Remuneration Committee.
- There is no evidence that sufficient documented information was supplied to the Court so that members could be assured University policies were followed and the University’s interests were protected.

Were decision-makers aware of the Governance requirements of SFC?

8.10. Page 30 of the 2013 Scottish Code of Good Higher Education Governance states: “In discussing these issues, and if considering severance arrangements for senior staff, the remuneration committee must represent the public interest and avoid any inappropriate use of public funds”.

8.11. We saw evidence which confirms the Chair of the Remuneration Committee was provided with an extract from the Financial Memorandum relating to severance payments. We saw no communication with regard to the requirements of the

Financial Memorandum at Part 1 Paragraph 17, which requires that “The institution strives to achieve value for money and is economical, efficient and effective in its use of public funding”.

8.12. We conclude that:

- There is no evidence that the Committee was provided with specific written advice on its value for money responsibilities, which it was required to consider at its meeting on 29 July 2017.

Did the University comply with the requirements of the Financial Memorandum in relation to severance payments?

8.13. Paragraphs 29 to 34 of the Financial Memorandum (reproduced at Annex A) set out requirements in relation to severance payments.

8.14. As noted at paragraphs 2.1 and 2.4 above, the payment to the former Principal was described as both an amount due in respect of a contractual 12 month notice period and for ‘garden leave’. It was not described in the accounts or in the settlement agreement as a ‘severance payment’.

8.15. We saw evidence to support a view that the payments to the Principal were, in essence, severance payments:

- Commentary on the initial terms which indicated that it was planned that the unexpired period of fixed term contract (to 31 October 19) would be paid as compensation for loss of office.
- Reference to the university not having a severance policy and a proposal that the termination not be handled as a severance but within the parameters of 12 months’ salary.
- Communication about the 29 July 2017 Remuneration Committee, attaching a draft ‘Heads of Terms of Agreement’ and stating “there will be an extraordinary meeting of the Remuneration Committee held tomorrow, Saturday 29 July 2017 at 11am to consider terms of a severance arrangement”.

8.16. It is our view, therefore, that the intention of the settlement agreement with the former Principal was to provide a payment in order to secure his orderly departure from his position as Principal of the University. Therefore the requirements of the Financial Memorandum at Part 2 paragraphs 29 to 34 (see Annex A) ‘Severance Payments’ should have been observed by both the parties who agreed the settlement agreement.

8.17. We have examined the agreement and the circumstances of its negotiation and

concluded there was non-compliance with several Financial Memorandum requirements:

- Non-compliance with both elements of paragraph 29.
- Compliance with only 3 of the 9 bullet points at paragraph 30.
- No evidence of compliance with paragraphs 31 and 32.
- Partial compliance with paragraph 33.

8.18. We saw evidence that the Audit Committee specifically requested the external auditor to examine the payment made to the former Principal.

Was the disclosure in the 2017-18 financial statements correct?

8.19. The mandatory disclosures for Scotland's universities were detailed in the [Accounts Direction for Scotland's universities 2017-18](#)⁷ (SFC/GD/11/2018) issued by SFC on 8 July 2018. Requirements for the disclosure of the head of the institution are given at paragraph 12: "The actual total remuneration of the head of institution which must disclose separately salary, bonus, employer pension contribution and benefits in kind. Where there is a change of head of institution during the year, details should be given separately for each person, noting the dates each was in post".

8.20. As stated at paragraph 2.1 above the payment was disclosed in the 2017-18 financial statements.

8.21. The external auditor, in his letter to management following his audit of the 2017-18 accounts, confirmed the payments to be a 'termination payment' under Financial Reporting Standard (FRS) 102, and that this treatment was correct.

8.22. In addition a payment of £60,000 (including VAT) was made to a third party in relation to the former Principal in October 2017 (see paragraphs 8.24 and 8.25 below). In our opinion this payment represented a benefit in kind. This amount was not included in the disclosure of the Principal's total remuneration at Note 7. Although the Accounts Direction at the time did not make a distinction between taxable and non-taxable benefits, we consider that a possible exemption from tax does not mean that the payment should not have been disclosed.

8.23. We conclude that the payments made under the settlement agreement were correctly disclosed in the 2017-18 accounts. However, in our view the additional payment of £60,000 should also have been disclosed.

⁷ <http://www.sfc.ac.uk/publications-statistics/guidance/guidance-2018/SFCGD132018.aspx>

Was the provision of outplacement support properly authorised?

- 8.24. Items forming part of the remuneration of the Principal fall within the remit of the University's Remuneration Committee. All payments should be made in accordance with the University's Financial Regulations. There is a requirement to obtain value for money in the Financial Memorandum Part 1: Paragraph 17.
- 8.25. The payment related to the provision of 'outplacement support' to the former Principal. Outplacement support or counselling usually involves professional advice or assistance designed to help an employee find a new job.⁸ The minutes of the Remuneration Committee meeting of 29 July 2017 stated "It was agreed that consideration would be given to the provision of outplacement support, following consultation with the University Lawyer on the matter." There was no quantification of the financial commitment this represented.
- 8.26. We saw no documentation to evidence that the University lawyer was consulted or provided advice on this matter, nor that the cost of the provision of such support had been considered prior to securing the services. We found no evidence of any formal authorisation for incurring the expenditure. Apart from the recommendation contained in the Remuneration Committee meeting minutes we found no other formal authorisation sign-off in relation to securing this additional payment.
- 8.27. We conclude that the Remuneration Committee agreed to consider providing outplacement support to the former Principal following consultation with the University lawyer. However, after its decision we saw no evidence that any such consultation with the University lawyer occurred or that authorisation to proceed with obtaining such support was properly concluded.

9. Summary of conclusions

Did the University properly consider Value for Money in relation to the additional payment to the Principal?

9.1. We conclude that:

- In approving the terms of the settlement agreement, there was no documented assessment of value for money.
- There is evidence that, if a proper and documented assessment had been undertaken, better-value options would have been identified.

⁸ A fuller definition can be found here: <https://www.gov.uk/hmrc-internal-manuals/employment-income-manual/eim13745>

- By defining the former Principal's 'formal' notice date as the date immediately preceding both the successor Principal taking up his post and the former Principal moving to a 12 month period of 'gardening leave', the University incurred the cost of two Principals over the 2018-19 financial year. In addition, over the 2017-18 financial year, the Principal received his full salary while having significantly fewer duties and responsibilities than those constituting the full role of Principal, and we have seen no evidence that the value for money consequences of that arrangement were assessed.

Were the payments approved by the Remuneration Committee and were they reported to Court?

9.2. We conclude that:

- The 'Heads of Terms' forming the main terms of the settlement agreement with the former Principal were approved by the Remuneration Committee.
- As noted at paragraph 8.8 there were omissions in relation to calling the meeting of the Remuneration Committee.
- There is no evidence that sufficient documented information was supplied to the Court so that members could be assured University policies and interests were observed.

Were decision-makers aware of the Governance requirements of SFC?

9.3. We conclude that:

- There is no evidence that the Committee was provided with specific written advice on its value for money responsibilities, which it was required to consider at its meeting on 29 July 2017.

Did the University comply with the requirements of the Financial Memorandum in relation to severances payments?

9.4. We have examined the agreement and the circumstances of its negotiation and concluded that there was non-compliance with several Financial Memorandum requirements.

Was the disclosure in the 2017-18 financial statements correct?

9.5. We conclude that the payments made under the settlement agreement were correctly disclosed in the 2017-18 accounts. However, in our view the additional payment of £60,000 should also have been disclosed.

Was the provision of outplacement support properly authorised?

9.6. We conclude that the Remuneration Committee agreed to consider providing outplacement support to the former Principal following consultation with the University lawyer. However, thereafter we saw no evidence that any such consultation with the University lawyer occurred or that authorisation to proceed with obtaining such support was properly authorised.

10. Actions

10.1. The SFC Board has determined that the following actions should be taken:

- The University is notified that it has breached Financial Memorandum requirements.
- The University is required to undertake an externally-facilitated review of its governance procedures and culture. It will provide assurance to SFC about the actions and outcomes resulting from its review.
- The University is required to repay grant of £119,000. This is the total of payments examined in this review (£289,000 + £60,000) multiplied by the proportion of total University income in 2017-18 represented by SFC funding (34%).

10.2. While the report focuses specifically on an individual institution, SFC expects all the institutions it funds to be familiar with SFC's requirements and the lessons to be learned from this particular case.

Annex A: Relevant extracts from the Financial Memorandum

17. SFC requires the governing body to comply with the principles of good governance set out in the Scottish Code of Good HE Governance. SFC also requires the governing body to ensure that:
- Public funds are used in accordance with relevant legislation, the requirements of this FM and only for the purpose(s) for which they were given. Strategic, Capital or other grant funding must only be used for the purpose for which it is provided by SFC.
 - Subject to any legal requirement to observe confidentiality, the institution will be open and transparent with SFC and other stakeholders, and will give, or be prepared to give, a public justification of its decisions in relation to the use of public funds.
 - The institution strives to achieve value for money and is economical, efficient and effective in its use of public funding.
 - There is effective planning and delivery of the institution's activities in accordance with its mission and its Outcome Agreement agreed with SFC
 - The institution plans and manages its activities to remain sustainable and financially viable. An institution is being managed on a sustainable basis if, year on year, it generates sufficient income to cover its costs and allow a margin of surplus for investment in its infrastructure – physical, human and intellectual – at a level which enables it to maintain adaptive capacity necessary to meet future demands. However, SFC recognises there could be strategic circumstances that result in the institution making a planned deficit over a short period of time; for example, strategic investment for growth, where the return on investment is not realised immediately.
 - The institution has a sound system of internal management and control, including an audit committee, an effective internal audit service, and adequate procedures to prevent fraud or bribery.
 - The institution has an effective policy of risk management and risk management arrangements.
 - The institution has regular, timely, accurate and adequate information to monitor performance and account for the use of public funds. Such information will be made available to SFC on request, as necessary, for the exercise of its functions and to gain assurance.
 - The institution is engaged actively in continuously enhancing the quality of its activities and involves students and other stakeholders in these processes.

Severance payments

29. The institution must adhere to the following principles when taking decisions about severance payments, including settlement agreements:
- The actions of those taking decisions about severance payments, and those potentially in receipt of such payments, must be governed by the standards of personal conduct set out by the Committee on Standards in Public Life (the Nolan Principles).
 - The governing body must take account of SFC's expectation of the institution in this FM regarding the use of public funds.
30. Based on the principles above, the following requirements must be met:
- The institution must have in place a clear policy on severance payments.
 - Severance packages must be consistent with the institution's policy and take into account contractual entitlements, for example, salary and period of notice, and any applicable statutory employment entitlements. This means that, when entering into employment contracts, care must be taken not to expose the institution to excessive potential liabilities.
 - The institution's policy must include a formal statement of the types of severance arrangements that should be approved by the Remuneration Committee or equivalent and approved formally by the governing body. These must include any severance package that is proposed for a member of the senior management team, in recognition of the particular level of accountability that is attached to senior management positions, and also any severance package that would exceed a maximum threshold agreed by the governing body.
 - Where a severance package exceeds the maximum threshold agreed by the governing body, the institution must consult with SFC's Accountable Officer prior to approving the proposed severance package.
 - The remuneration committee or equivalent, when overseeing and approving severance arrangements for staff, must ensure that all decisions are recorded.
 - Negotiations about severance packages and payments must be informed, on both sides, by legal advice where appropriate.
 - When a severance arises following poor performance on the part of an individual, any payment must be proportionate and there should be no perception that poor performance is being rewarded.
 - Final year salaries must not be inflated simply to boost pension benefits.
 - Notice of termination of appointments must not be delayed in order to generate entitlement to payments in lieu of notice.

31. The institution must ensure its internal auditor includes a regular review of systems for the determination and payment of severance settlements in their strategic audit plan.
32. The institution must seek the view of its external auditor if it plans to make what it considers to be any novel or potentially contentious severance payments, including those that exceed the maximum threshold agreed by the governing body.
33. The institution's external auditor must review severance settlements. Such a review will normally take place after settlements have been agreed (normally as part of their financial statements audit) and should be carried out by senior audit staff because of the complexity and sensitivity of the issues. If final settlements do not materially conform to the terms of this FM, auditors must report the facts to the institution in their management letter, and inform members of the governing body. The auditors should also recommend that the institution informs the SFC immediately.
34. Where there are settlement agreements, and it is felt that a confidentiality clause is necessary, this must not prevent the public interest being served and must be consistent with the institution's whistleblowing policy.

Annex B: University of Aberdeen Remuneration Committee Remit

- (i) To advise the Court on matters relating to the pay and conditions of senior staff;
- (ii) To seek comparative information on salaries and other emoluments and conditions of service in the university sector;
- (iii) To determine and review the salaries, terms and conditions (and where appropriate, severance payments) of the Senior Governor, Principal, Vice-Principals, the University Secretary, Professorial and Grade 9 officers and such other staff as the University Court may from time to time determine;
- (iv) to ensure that the performance of the Principal as head of the institution is assessed on an annual basis.
- (v) To oversee severance arrangements for senior staff and ensure that account is taken of the SFC Guidance on Severance Arrangements in respect of Senior Staff. Where consideration of severance arrangements is delegated, to ensure that the boundaries of delegated authority is clear, and to receive formal reports of any severance arrangements.



Scottish Funding Council
Comhairle Maoinachaidh na h-Alba

Scottish Funding Council
Apex 2
97 Haymarket Terrace
Edinburgh
EH12 5HD
T 0131 313 6500
F 0131 313 6501
www.sfc.ac.uk