

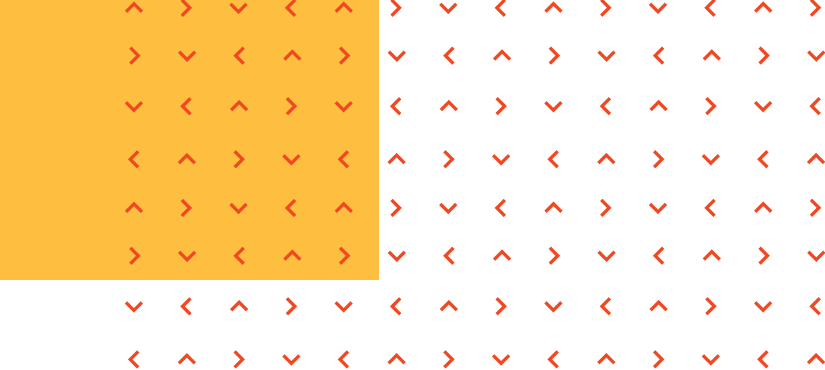
WONKHE

Governing universities during the Covid-19 crisis

MAY 2020

In association with





In March 2020, in light of the global Covid-19 pandemic, the UK university sector moved almost entirely to remote learning and teaching, in most cases in only a few days. Though some students and staff remained on campuses by necessity, universities grappled with the enormous logistical and wellbeing challenges of enabling students and staff to continue to work and study remotely.

Meanwhile, the scale of the financial impact on universities was becoming clear, both in terms of cash liquidity shortfalls caused by loss of commercial income, and potential serious solvency issues caused by a prospective drop in student numbers in September 2020, especially international students.

A government support package announced in early May 2020, though welcome, offered the bare minimum to address cashflow by bringing forward payments of quality-related research funding and tuition fee payments for 2020-21, and put in place a temporary student number cap aiming to restrict competition for student numbers.

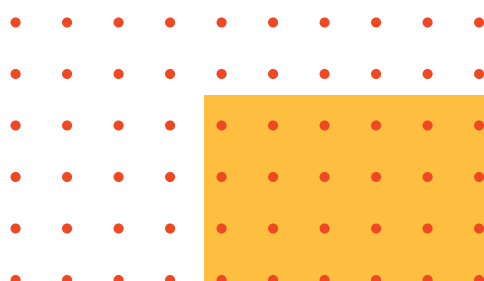
As universities moved past the initial crisis stage - or React, in KPMG terminology - to consider the medium and long-term future of their institutions, Wonkhe and KPMG worked together to create a package of articles focused on challenges and opportunities for university boards of governors.

Often criticised for being insufficiently focused on big strategic questions, to a large extent boards are now only faced with big, strategic questions. For some, the very survival of their institution appears in question. For others, the prospect of a tough few years will still prompt significant soul-searching over how to preserve their university's character and mission, while remaining financially sustainable.

Debbie McVitty
Editor, Wonkhe

Justine Andrew
Director, Public Sector, KPMG

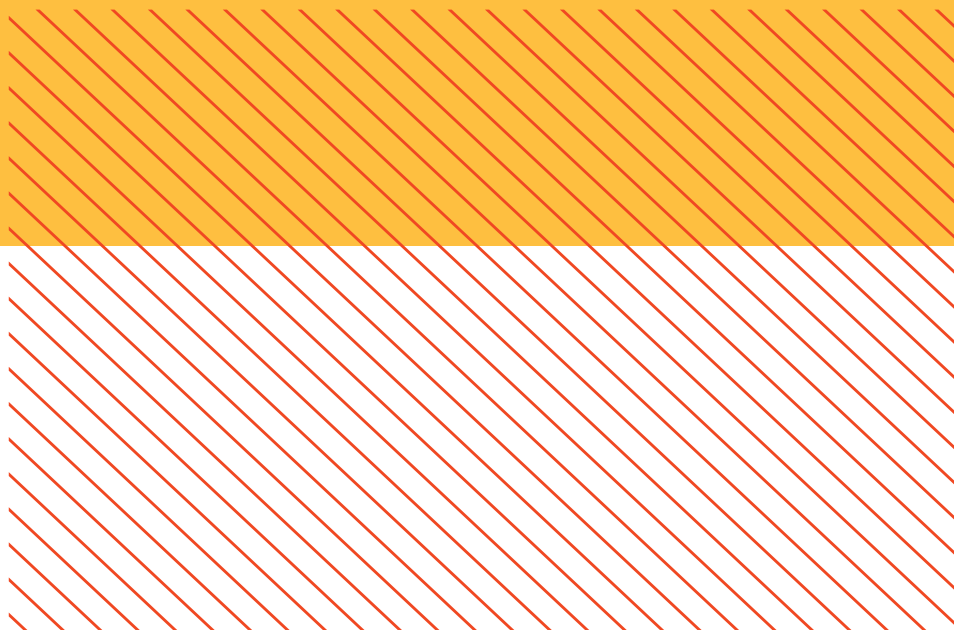
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From crisis to creativity: how Covid-19 could change HE governance

Despite the challenges boards of governors are facing, Debbie McVitty discovers an appetite to use the Covid-19 crisis as an opportunity for innovation.

“You can’t stay in crisis all the time”, says Chris Sayers, outgoing chair of both the Committee of University Chairs (CUC) and Northumbria University.

“We know we’re going to have a very difficult time for a year, possibly two. The conversation that the vice chancellor, executive team and board are having now is about ensuring that we adapt and take advantage of the new opportunities that will certainly come out of this so that we end up even stronger, because this is going to be playing out on a global scale and there will be winners and losers globally.”

Over the past month, universities have operated in crisis management mode: taking decisions quickly, with minimal consultation. As the emphasis shifts from emergency rapid response to events to scenario planning for coping with the consequences of the pandemic, boards of governors are considering how best to contribute.

“Lots of boards are predominantly in cooperative mode at the minute, rather than the traditional ‘agency’ mode of purely providing external challenge” says Victoria Holbrook, assistant director of governance for Advance HE. “That’s fine as long as you recognise that and what role you as a governor are performing, and consciously adapt as the situation and discussions require.”

Ways of working

Chris believes that the series of shocks the HE sector has seen over the last five years, with the removal of the student number cap in England, Brexit, and the Augar review, has strengthened the resilience

of governing bodies to changing, often challenging, external circumstances.

Yet it’s frequently observed that governing bodies are insufficiently focused on institutional strategy, as opposed to day to day matters and discharging “sign off” duties. A recent Advance HE survey of governors identified support of the institution’s long-term strategic plan as an area that governors believe requires further development, along with performance review of heads of institution and the governing body itself, and the diversity of voices on governing bodies.

One practical effect of the pandemic and the shift to remote working and meeting has been that boards of governors are forced by circumstance to strip down agendas only to critical items, focusing discussion where the most value can be gained.

“Some governors have said the change in the way of working has made meetings much better – more productive, more inclusive,” notes John Rushforth, executive secretary to CUC, who believes that boards

This is a time when collaboration is much more important than competition.

are likely to use virtual meetings in some form when we get to the new normal.

Victoria warns that while the shift to online may be working reasonably well, boards should be mindful of what may have been lost as a result. “It doesn’t enable conversations over coffee breaks, or to see things in practice on campus affecting students and staff,” she says. “It’s important to recognise those things are missing and think about what that means for the sorts of questions you need to ask as a governor or other ways of working.”

On agendas, what’s critical remains deeply challenging. “Risk assessment is more difficult, and also more important,” says John. “Boards may need to have more direct discussions about academic decisions – how the shift online is affecting students, what the offer is to incoming students, how we might share academic resources with other institutions. A



challenge will be how to balance the interests of your own institution and the others in your region – this is a time when collaboration is much more important than competition.”

Boards of governors are likely to take heed of CUC’s advice to keep a record, not only of decisions taken, but of the rationale for each decision. In an environment of imperfect information it’s accepted that decisions may be taken that with the benefit of hindsight are not correct, but were reasonable at the time.

There’s an opportunity to evaluate whether the institution is living its values, where the senior team might need extra support, which risks were identified and mitigated and which weren’t.

It’s likely – in a judicial review of a regulatory intervention, say, or a student case brought to the OIA – that some boards may be called on to provide an account of, and rationale for, key decisions taken. Under the circumstances, it’s worth thinking through a potential retrospective test of reasonableness in relation to each decision: what evidence is the decision based on? Whose voices and views are being taken into account?

There’s also potential for fundamental change – not necessarily in the character of universities, but in how work is done. “The executive and the board are working through short and medium term scenarios now that go from bad to pretty appalling,” says Chris. “But we’re also moving from crisis management to the next stage – and now the conversation between the board and exec is much more about things not being the same when we do go back – staff, students, research, TNE – what does all this mean from a cultural point of view, and how does this actually give us opportunity to accelerate and advance things that were in our strategy anyway?”

John speculates that professional behaviours and expectations across society may change as the remote working model beds in across different professions as a result of the pandemic. “Boards will need to think about what that means for estates, for professional services, for business support functions.”

Though the prospect of such fundamental change in ways of working could be daunting, there’s also an opportunity to explore the alternative to cost-cutting – creating new forms of value. “Like most organisations, universities can sometimes be reluctant to change operating processes,” says Chris. “Covid-19 has created a burning platform that has forced people to change, and staff and students have changed really quickly and done a brilliant job. Now, though, people can also see that it’s working, and this will certainly change the way we operate from now on. For example, as soon as you take the need for geographical co-location out of the equation, our ability to collaborate on all sorts of things increases and we would expect that to impact everything from basic services through to multi-disciplinary research projects.”

Victoria suggests that governors’ assessment of their university’s initial response to the Covid-19 crisis should give an indication of the underlying culture, capability and capacity at that institution. “All leaders will be remembered for how they did things, not just

Don’t make this just about bailing out, make this about transformation and a different sector emerging.

what they did,” she says. “There’s an opportunity to evaluate whether the institution is living its values, where the senior team might need extra support, which risks were identified and mitigated and which weren’t.”



Planning for post-Covid education policy

Given the projections of the financial impact on the sector of the Covid-19 pandemic, along with the – at best – incremental approach to offering government support, it is hardly surprising if governing bodies feel the lack of a policy framework within which sensible decisions can be made.

The ideal would have been a bailout that stabilises the sector, but not one that preserves the status quo at any

Decision-making in government is never fast, and waiting as a recipient of government action can be frustrating and lead to a sense of powerlessness.

cost. “Chairs would really like something that keeps things relatively stable for a while, but then gives the opportunity for reflection in the long term about what society wants from its institutions,” says John. “But my view is: don’t make this just about bailing out, make this about transformation and a different sector emerging, rather than pleading, ‘help us keep things the way they were’.”

“Higher education and further education have tended to continue along a similar trajectory year in and year out, responding only to changes in government policy” says Anne Milton, former Conservative minister of state for skills and apprenticeships.

“Though there’s plenty of examples of innovation out there, in the broadest sense they tend to continue on a similar path unless directed by government. The world we’re likely to see emerge after this crisis will have very different needs – productivity, working smarter and in different ways are all going to be high on the list of priorities. HE and FE need to think about how they are going to be part of that and what skills people will need.”

In Anne’s view the risk for universities is that they await government intervention, rather than taking

the initiative. “Without a doubt HE is a jewel in the country’s crown,” she says. “But everyone’s got a special case to plead – if you stand in the queue of people with a special case it’s going to be a very long queue. Decision-making in government is never fast, and waiting as a recipient of government action can be frustrating and lead to a sense of powerlessness.”

Though some of the government’s policy agenda following the December general election has receded into the background in the wake of Covid-19, that agenda remains live. A plan for post-compulsory education, investment in regional infrastructure, science and technology, social care and climate change, and now, economic rebuilding from Covid-19 while continuing to work through the terms of the UK’s departure from the EU.

“Education and skills is what rebuilds this country; it’s what will help people get back into work in industries that have suffered during the crisis, so there is a massive opportunity for HE and FE to deliver the skills,” says Anne. “But you have got to be quick, and fast, and imaginative – come forward with properly worked-out plans, and only ask for investment where it can’t be got from elsewhere.”

Further education clearly continues to play a central role in government policy in supporting places and regions, and Gavin Williamson noted recently that work has begun on a new FE white paper. Under the circumstances it could be an important time for governing bodies in HE to seek the counsel of their counterparts in FE and consider where there could be opportunities for joined-up thinking and planning.

Julie Nerney, chair of the Association of Colleges and Greater Brighton Metropolitan College is characteristically optimistic about the future, despite

This is the time to ignore historic differences and power imbalances and find a situation where everyone can flourish, and provide strong place-based leadership.



the challenges facing colleges as a result of Covid-19. “Colleges have responded magnificently to the change – you can see how integral the students are to colleges’ focus, and how they’ve shown leadership in their communities,” she says.

But, similarly to universities, there is a need to refocus thinking away from short-term and urgent issues and look to the medium and long term. In a historically fragmented post-compulsory sector in which education providers have been encouraged to adopt a competitive and commercial mindset, this could look like efforts to seek competitive advantage and protect institutional interests at all costs.

This would be a mistake, believes Julie. “The risk is that out of this crisis priorities will be about expanding the organisational footprint, and trying to take market share. It might make people want to pull back from partnership, and entrench into a competitive mindset. This is not the time to do that. This is the time to ignore historic differences and power imbalances and find a situation where everyone can flourish, and provide strong place-based leadership.”

Traditionally, effective governance has been framed as protecting the longevity and sustainability of one’s own institution. But Julie believes that governors can offer strategic leadership on how education institutions can fulfil their mission to serve their place, as well.

“People think governance is a really dry subject, about rules and compliance,” she says. “I like to think the role of any governing body is to be the strategic mind of the organisation – giving a fresh perspective, drawing on their own experience, testing different approaches from different sectors. Governors should be mindful about our role as place-based leaders, as strategists, as having oversight of partnerships. We’re already being forced to think creatively about things so let’s make that an advantage and take the opportunity to have conversations that might previously have been in the ‘too difficult’ box.”

In search of a conversation

“I hope we are now starting a more engaged and constructive conversation with government,” says Chris. “In the past we seemed to get into an unhelpful spiral of on one hand the sector asking for better funding and on the other a perception that we are delivering low-value degrees and paying senior staff too much. We need instead to be able to agree what is a realistic expectation of what universities can deliver within the funding that is available.”

A key question for chairs is where and how the conversation about transformation might take place. In England especially, policy shifts in the last decade have fostered competition between universities rather than cohesion. HEFCE’s role as a convening body, particularly helpful in times of acute crisis, remains vacant. Though each university may have its own internal discussions and scenarios, there’s a loss of quality and efficiency of strategic thinking about the sector as a whole.

Governors, of course, have a responsibility for the sustainability of their own institution, not the health of the sector as a whole. But a potential lack of sector-wide and sector-led thinking about the future shape of higher education leaves a gap that in the absence of a coordinating body only government and regulators can fill. This isn’t only about institutional autonomy but about sourcing the best ideas and insight about the role of higher education in a post-Covid-19 world. Might governors be in a position to kick-start that conversation?



The strategic imperative: planning for a post-Covid future

Boards of governors are moving from crisis management to strategic planning. Justine Andrew - herself a university governor - sets out the big strategic questions, and how boards can be confident they're getting the right answers.

Strategic planning is a much more comfortable process when the future is reasonably predictable. The higher education sector has benefitted in the past from offering an established model of education, loose enough to accommodate innovation in practice without really having to change significantly how things are done.

At KPMG, we're using the terminology of React; Resilience; Recovery; Renewal and New Reality to help us think through the different time horizons for decision making and the actions that might be required at each stage.

Historically university strategies have too often been exercises in consultation without moving the dial on university activity: be it because it is hard to challenge the status quo from inside, a lack of a driver to make change ("if it ain't broke...") or a lack of an external burning platform.

Of course none of us had any idea that a disruption of the magnitude of Covid-19 would hit us with a sucker punch to the solar plexus, challenging every notion of what a university does within a scant few weeks. The

role of boards will be critical in the next few months in providing oversight, support, and challenge to executive teams making decisions with imperfect information, significant uncertainties, and without a road map of established practice.

At KPMG, we're using the terminology of React; Resilience; Recovery; Renewal and New Reality to help us think through the different time horizons for decision making and the actions that might be required at each stage.

In most cases, universities are now moving from the React stage to Resilience – having secured the continuation of teaching in some form for the summer term, universities are now assessing the short, medium and long term financial impact of the pandemic and thinking through how to manage those losses without irrevocably damaging the long-term sustainability of the university or its mission.

This is not without its challenges. There remains significant uncertainty about the extent, and how soon, universities will be able to operate a full on-campus offer; if, when and in what numbers overseas students will return and what will UK students choose to do, whether returning or entering the university sector for the first time. All of which make it difficult to know for how long current cash reserves, cost savings and finance facilities will protect institutions.

The availability of additional debt finance to address liquidity shortfalls is not a foregone conclusion, even if universities are eligible to apply for government-backed lending schemes. Robust assessment of external financing requirements and satisfaction around the university's ability to service and repay (or refinance) debt and comply with covenants remains at least as relevant from a governance perspective now as it should do in normal market conditions. A real grip on costs and cash flow will be required to assure lenders, and potentially any central intervention, that everything possible has been done before the university has sought additional financing.

We now know the scale and scope of the government support package announced earlier this week which, while welcome, will not, on its own, be enough to ensure the long term sustainability of the sector. Some of the regulatory caveats also add another complexity for governing bodies in considering their responses. In Scotland, and elsewhere, government sources have floated the likelihood of forced mergers as a condition of a bailout and DfE's explicit mention of a



“restructuring regime” for higher education perhaps poses more questions than it answers for boards considering future options.

How do we move forward?

All this is enormously preoccupying, but as governors we must keep one eye on the here and now (React and Resilience) while also looking towards the medium term (Recovery) and the longer term more substantive pressures on the sector (Renewal and New Reality).

Boards will need to get to grips with the data and scenarios at a granular level to understand the impacts on our institutions

This will mean taking potentially far-reaching decisions in far shorter time frames than boards have been used to. As executive teams grapple with scenario planning where there are multiple “known unknowns” and “unknown unknowns”, boards will need to get to grips with the data and scenarios at a granular level to understand the impacts on our institutions. It will mean objectively considering the likelihood of the different scenarios and thinking outside of the current organisational boundaries (and with some imagination) about the art of the possible.

Governors need to be able to balance challenge and risk management in board/council meetings and this cannot fall to the chair alone; the collective skills and experience of the whole board must be brought to bear. We do not have a crystal ball, but inevitably not all decisions will turn out to be the correct ones. Governing through the coming months will require managing an inevitable level of risk, holding our collective nerve and being absolutely clear on the rationale for each decision taken, especially when it appears other universities may have gone down different routes.

The current crisis will bring to the fore some of the deep-seated cultural issues that have meant change in universities has, to date, been on the whole

incremental (and if we are honest, even that hard to deliver). But the really positive activity in the React phase shows that universities can mobilise in extraordinary ways and with speed and agility when they need to.

New reality?

The last few weeks also helps us see, in the context of all of the wider changes we knew were out there, how the existing model could be disrupted. We would not be very creative leaders if we were not able to imagine a range of different potential futures and our responses to them.

As we do this, we need to keep four questions in our minds:

- HOW are we delivering our core mission – and does how we deliver it need to change?
- WHO is the “customer” (students, employers, government, partners in our region and globally) and what are their needs, now and in the future?
- WHAT kind of education and research is (and is not) needed – and what could that look like in the future?
- WHY does what we do now continue to be the right answer – or where do we need to update our thinking?

As we look forward to a New Reality, these questions should remain at the heart of the issues that boards and councils need to consider. Across all university activities there will come a decision point where, for each activity governors need to support and challenge universities to answer those key questions, especially the WHY is what we do now the right answer going forward? For some activities the answer will be “yes, this continues to be the right thing for X reasons” and so the challenge becomes building enough resilience

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into the system so that that the activity remains sustainable.

Through this crisis there will also be the opportunity to explore new avenues and perhaps address some of the shibboleths that have endured. Does the

What is absolutely core to our institution and therefore needs to be kept sacred? Then, where might we collaborate, share, stop, or even merge activities with others?

university need to do all of the activities across the frontline, middle and back office itself? Is now the time to proactively explore the role of collaboration – or even merger – activity, perhaps in anticipation of government action? Is the portfolio mix the right one and how can the university balance the need to reduce cost, generate revenue and, most importantly, meet the needs of the wider economy post-Covid-19, as well support strong recovery in the places where the university operates?

As governors, again the fundamental question is: what is absolutely core to our institution and therefore needs to be kept sacred? Then, where might we collaborate, share, stop, or even merge activities with others?

To enable these discussions there are some practical steps boards can take:

- Ensure that there are robust and accurate cash flow forecasting protocols in place together with cash committees and initiatives for cash generation/preservation
- Ensure that there is a comprehensive and very structured approach to cost reduction so that every ounce of effort to reshape the organisation in these difficult times is captured.
- Ensure that there is appropriate scenario planning considering the “what if” scenarios for the university

- Review the governance approach in a time of rapid change to ensure governors are engaged in agile constructive challenge and support of management much more regularly, while decisions are being made, rather than being a rubber stamper when it is really too late to make a difference
- Support management by ensuring they have the right programme of skills and oversight in place to deliver the things they need on time: perhaps consider bringing in co-opted members with key skills needed to support the organisation and management in specific areas
- Make sure the board is looking at decisions through different lenses and timeframes: some activities will be for the here and now (react) but others could have long-term implications that need to be assessed depending on the path taken at those critical decision points (the online teaching strategy for September being a good example).

If the strategy does pivot – and it undoubtedly will in some areas – what activity will any new organisational structure be there to support? There may be potentially some quite significant structural changes to the way universities operate and so challenges for the board as leaders include:

- How to consider the different student experience across what might become very mixed learner cohorts?
- How do you create the academic flexibility and agility required to meet those potential demands?
- What could it mean for professional services; the estate; the systems and indeed the workforce of the future?

I think we have discovered, as have many sectors, that providing the best education, research and civic engagement – fulfilling the ambitions of what it is to be a university – can be threatened by disruption, just as in any other industry.

Indeed, there has probably never been such a strong imperative to really step back and think about the different options open to a university to meet current and future societal and economic needs as we enter the New Reality. Some of which may well lie outside of the university as it is currently structured.



Risk management, planning, and audit are at the centre of the sector’s Covid-19 response

Risk management, audit, and strategic planning have all had a role to play in the way the sector has responded to Covid-19. And, as David Kernohan finds out, they will play a huge role in the return to a “new normal”.

A black swan is defined, in Nicholas Taleb’s popular book, as follows:

Everyone knew we have a small but specific chance of a respiratory pandemic any given winter. The trouble was, it was seen as vanishingly unlikely.

First, it is an outlier, as it lies outside the realm of regular expectations, because nothing in the past can convincingly point to its possibility. Second, it carries an extreme ‘impact’. Third, in spite of its outlier status, human nature makes us concoct explanations for its occurrence after the fact, making it explainable and predictable.”

Covid-19 has had, and will continue to have, an extreme impact on just about every area of life. But it is emphatically not a “black swan” – it was always predictable. Everyone knew we have a small but specific chance of a respiratory pandemic any given winter. The trouble was, it was seen as vanishingly unlikely.

In a similar way, every newspaper (and even Wonkhe) has a “London Bridge” plan and accompanying

documentation. This covers what would be published in the event of the death of the Queen – and details the effect of the formalities of the death of the monarch and coronation of another on publication. For this unhappy circumstance is also not a “black swan” – we know it will happen. We just don’t know when.

Predictability

The world has suffered from a pandemic driven by person-to-person infection before. Several times. Spanish flu, swine flu and SARS are all close analogues to the way that Covid-19 has played out. And most authorities had at least a plan in place for dealing with future versions.

Did your university have a pandemic flu plan? It perhaps wasn’t specific to such an infectious disease, but you almost certainly had a plan in place for if you were unable to use your campus for a sustained period of time. You will have had a “business continuity plan”, which formed your response to any number of possible crises and would have set out the decision making process and likely mitigations that would be put in place.

Coupled with this, there would be a risk register – which covered a measure of likelihood, a measure of severity, and a mitigation plan for a number of identifiable risks. A pandemic is unlikely to have been on there (too unlikely), but providers have been making use of mitigations designed for other risks. Thinking about being able to use the campus would have been informed by scenarios linked to fire damage

University boards tend to look at risk termly (focusing on things like recruitment, retention, and continuation data) – so we’ve seen some serious picking up of the pace.

or industrial action, plans dealing with a sudden drop in income and international recruitment may have begun with thinking about everything from



One key aspect that internal audit should be looking at is business continuity and IT resilience.

geopolitical instability, to Brexit, to the Augar review.

In other sectors, for example the NHS where risks can materialise on a register quickly – risk registers will change in timescales measured in weeks. By contrast university boards tend to look at risk termly (focusing on things like recruitment, retention, and continuation data) – so we’ve seen some serious picking up of the pace.

Keeping things going

Business continuity was the first tool in the box that many reached for once the scale of Covid-19 became apparent – most or all universities already had business continuity plan plans, and had tested them in the last two or three years perhaps with industrial action as a scenario. A continuity plan puts infrastructure (largely IT) and decision making capability in place in the face of disaster. And the ability of universities to keep going through such radical change is testament to the quality of these plans.

That’s not to say the journey was painless. Some aspects of continuity planning have been overridden as events overtook processes, and sometimes decisions needed to be taken at speed rather than via the appropriate structure. But overall, plans would have served reasonably well.

Assurance in a crisis

It’s the job of internal auditors, and by extension audit committees to keep an eye on these in-the-moment contingencies, and to ensure that decisions are made appropriately. When you are in the teeth of a global pandemic and lockdown dealing with audit is initially very low on the list of front line priorities. But it is essential – an institution’s risk appetite will have changed, or the volumes of activity and operating environment will have changed and assurance is needed by management and governors.

One key aspect that internal audit should be looking at is business continuity and IT resilience. This is not because there has been a problem, indeed institutions appear to have adapted well to the change, but governors should be assured that IT systems have the right level of resilience in the medium term and that lessons learned are reflected in the approach to business continuity.

There will no doubt have been extensive communications with staff and students throughout the period of transitioning from “on” to “off campus”, but as time passes this could have fallen away. It is essential that information is shared and used appropriately, and audit is the tool to follow this up in the short to medium term and provide insight to management on whether there are any cold spots.

Likewise, assurance is needed over the many changes in governance that may have been needed to operate during this emergency. Internal auditors will also be looking at the way financial controls and cybersecurity standards have worked – unusual working patterns mean that the risk of fraud or malicious attack will be higher than in “normal” times.

External audit will need, as always, to vouch for the continuation of a provider as a going concern, a far more complex question than in recent times.

Finance will be another key area of attention – procurement (especially in IT as the sector scaled up remote learning) will have happened quickly, but did it happen well?

External audit will need, as always, to vouch for the continuation of a provider as a going concern, a far more complex question than in recent times. As there are serious concerns about recruitment for 2020-21, it is difficult to know what income a university will have – and with the duration (or repetition) of lockdown unknown there are also questions about expenditure. But as in other years, external audit will also focus on



policy and process, and on safeguards and contingencies.

From planning to delivery

Planning in recent years has benefited from the availability of high quality data and the capacity to use it. But for 2020-21 and beyond, we need another approach – and scenario planning will be far more important than extrapolating from pre-pandemic trends.

To give you an example – a decline in international recruitment means a decline in fee income, which will have a direct impact on the availability resource to meet provider costs. But it also has an impact on everything from demand for accommodation to sales in catering outlets. Few providers will have models

There are so many possible outcomes that the temptation is to wait until more information is available – but holding off planning runs its own risks.

that cover all of this (though this can be addressed), but even if they did the question would be which scenarios to plug in? There are so many possible outcomes that the temptation is to wait until more information is available – but holding off planning runs its own risks. Decisions need to be made, even though reliable information and certainty does not exist to support them.

Getting a handle on what these needs might be is complex. Survey data, especially from international students, via the British Council and elsewhere, will be helpful, as will qualitative insight from recruitment teams. This proximate intelligence can be used to develop scenarios.

But keep an eye, too, on what levers the government may be adding to the system. Several providers are expecting a new emphasis on place based strategies. There is also the possibility of collaborations and even mergers – governors and management can make or

A high functioning governing body should ask for the insight and information it needs, and be able to challenge this as needed.

break these putative relationships, so the capacity for wider strategic thought needs to be there.

Back to the campus

When the lockdown lifts, and when normal life begins to resume, it will be a long drawn-out process, both to manage a possible second peak as social mixing returns and to support our anxious and shattered minds. We should not underestimate the stress that both the current situation and the transition to and from it has put people under.

Governor decisions should be informed by good quality internal and external data as far as possible, but without compromising timeliness for accuracy. A high functioning governing body should ask for the insight and information it needs, and be able to challenge this as needed.

But one of the first tasks, for everyone, will be to reflect (both formally and informally) on how we managed what we have been through, and to update our emergency planning as appropriate. Because this is not a “black swan”, it will happen again, perhaps as soon as later this year. And we need to be ready.

David is grateful to Fleur Nieboer, Andrew Bush, and Clare Partridge from KPMG for their support in developing this article.



Securing the student interest in Covid-19 will require tough choices

Jim Dickinson thinks through the trade-offs between institutional and student interests as boards of governors consider their response to Covid-19.

Here's a tough question. Either it was always possible to deliver what was promised to students on less than £9,250, or universities are about to deliver less than what was promised for £9,250. Which is it? And if asked, what would you say out loud?

The choices facing prospective students – and indeed continuing students – are stark, and full of problematic risk/opportunity conundrums to weigh up

This is the sort of issue that should matter to governing bodies. Not only are boards of governors and councils legally responsible for a university and its activities, there are also wider duties and accountabilities – to students and communities, and to taxpayers. These are competing duties that were already important before Covid-19, but they're even more important now.

The need to make savings and cope with a potential collapse in demand means the educational character and mission of all of our universities is being dramatically and rapidly altered – not necessarily in a temporary way. The nature of the relationship with students – both collectively and individually – is also

in contention.

And while the emergency nature of the crisis before Easter probably required governors to step back from active challenge of executive teams, beyond seeking assurance that the welfare of staff and students had been addressed, the big decisions needed for the transitions arguably need governors to engage deeply and critically with the specific trade-offs required in the months ahead.

Business as usual

The signal that new universities minister Michelle Donelan seems keen to send, both to home and international applicants, is that September for the higher education sector will, as far as possible, be business as usual. It might end up being partially online, but that shouldn't stop students enrolling. Please do keep calm and please do carry on.

That does mean that the choices facing prospective students – and indeed continuing students – are stark, and full of problematic risk/opportunity conundrums to weigh up. On the one hand, the experience of enrolling in September when we might be bouncing in and out of social distancing like a student in and out of a set of halls with a faulty fire alarm might be miserable – especially because most UK enrolment is as much about the campus experience as it is about learning outcomes.

On the other hand, to the extent to which university is also about class signalling, it may well be massively difficult to get into university the year after – especially if by then applications have doubled and a whole clutch of providers have collapsed or recalibrated their offer. And if you're a continuing student, there's your friends, and that housing contract you've already signed, and anyway – you're sick of being at home. So do you gamble?

The news is good

In theory the good news for students is that they shouldn't have to take those sorts of risks personally. Because students that pay fees are legally consumers, there are both student protection plans and a wider consumer protection regime to help.

Student protection plans are a regulatory requirement introduced when the Higher Education and Research



Act 2017 started to be implemented, and are supposed to set out the risks to continuation of study faced by students, and make clear the plan if any of those risks shifted from hypothetical to actual. It's a policy designed to address the increased risks to students and their families of the competitive market in higher education – it gives reassurance to students that if something went wrong they would be able to complete their studies.

It's probably the least the state can do. Enrolling on a course of study is quite a risky business and involves a major investment (both financial and in opportunity costs) from individuals. The state here is suggesting that its system of autonomous, competing providers

Many higher education providers may well be facing increased and enhanced risks to the continuation of study but might also not be super keen to admit them or be public about them

normally works well – but on the occasion that it doesn't, its regulator insists that an appropriate safety net has been developed so you can be confident you'll be able to continue and complete your course.

The big problem right now is that many higher education providers may well be facing increased and enhanced risks to the continuation of study but might also not be super keen to admit them or be public about them. Student protection plans cover courses, campuses and “material components” of the student experience. There's a moral case to be honest about the increased risks and set these out in the plan. There's a simultaneous risk of prompting a panic and swift exodus if you're honest – or even just pessimistic – about aspects of the university. Which option do you choose? And will that choice be made by the governing body?

Spending reductions

There are similar questions to face over student terms and conditions. If governing bodies ever approve these, it's on the nod on the recommendation from a finance director – but terms and conditions are suddenly in sharp focus.

Almost everyone accepts that the things universities have done to cope with Covid-19 so far have been extraordinary, and the result is that there is little real dissatisfaction around the “online pivot” in anything but the more extreme student or course circumstances. But the autumn is something else. Universities have a legal duty to deliver what they have promised, with reasonable skill and care, and can only generally rely on clauses that deal with things like a pandemic if delivery becomes impossible – rather than merely expensive or awkward.

Terms that allow a higher education provider to vary or drop something – such as the breadth of course content or major facilities – are unfair where they allow wide discretion to the provider to make changes to important aspects of the service. “It is important”, says the Competition and Markets Authority, “that students receive what they expected, rather than something different.”

What was legitimate to impose on students during an emergency becomes something students have much more agency over in a prolonged crisis.

In theory that takes the risk out of September – both for prospective students who've relied on the “material information” about their campus experience, and continuing students who would need to explicitly agree to a variation to what's been offered, a failure to provide would mean refunds and compensation kick in. Universities aren't allowed to say to new students “you might get a decent first term, you might not.”



And for continuing students, what was legitimate to impose on students during an emergency becomes something students have much more agency over in a prolonged crisis.

But the reality facing governing bodies over the next month or so is that most will be being asked to input into or even sign off on budgets that would see the promise to students not being fully fulfilled – both in the medium “socially distanced” term, and potentially in the long term.

And this isn’t just a bit of inconvenient compliance. It involves governors properly interrogating the actual impacts on the student experience of a budget proposal – both generally and for specific groups of students – and making decisions that properly balance the interests of the institution as a financial entity/going concern, and the interests of the institution as a community of staff and students.

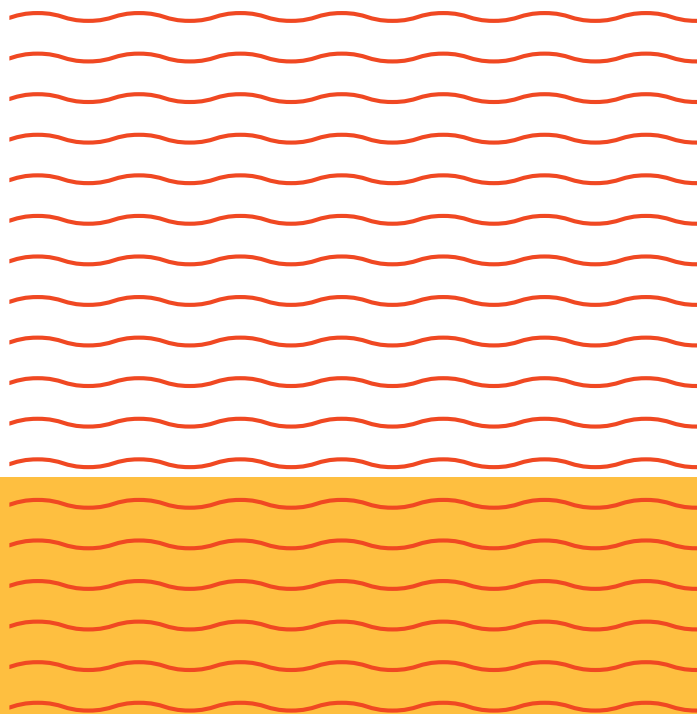
Risky business

In our work with students’ unions and student governors, their most common complaint about their work on governing bodies isn’t that they don’t understand the paperwork, or that they can’t get a word in edgeways – they tell us that councils and boards have a tendency to discuss the affairs of the institution in a way that seems to avoid the realities of the trade offs and moral costs required when making decisions about strategy. That avoidance may have been possible in a period of benign expansion – but is probably not a smart solution for the difficult decisions ahead.

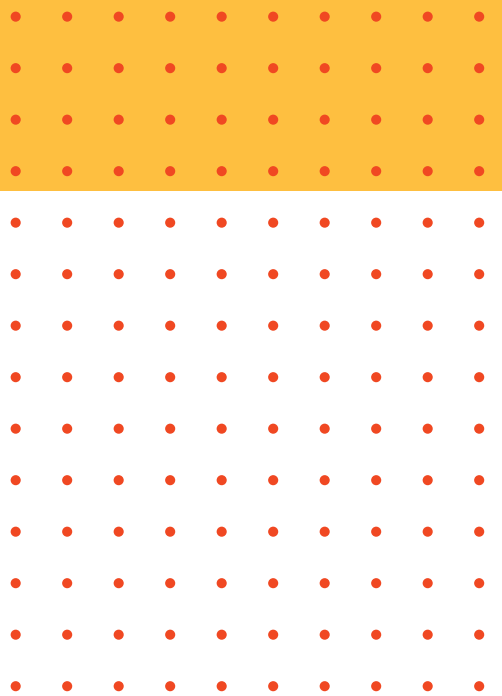
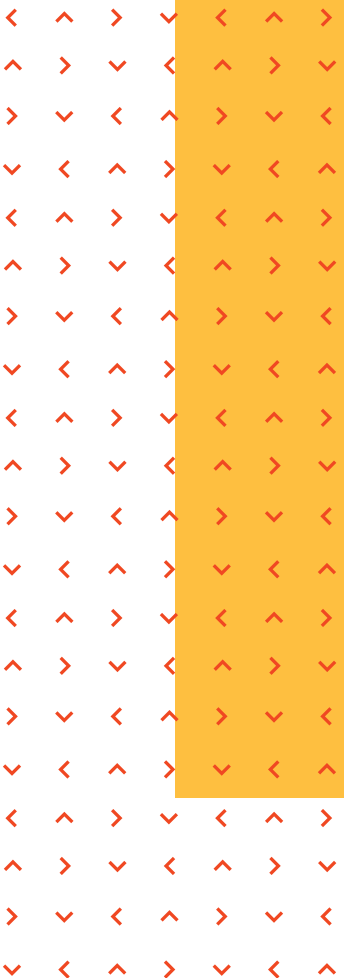
So here’s a final top tip. It would be very very odd if you didn’t spend some time as a Governor over the next few months staring at a risk register. Maybe there should be a parallel one that looks at the risks to students that are coming – their learning, their employment prospects, their mental health, and so on. It’s the least a charity whose principal beneficiaries are students can do, isn’t it?



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Wonkhe
31-35 Kirby Street
London EC1N 8TE
www.wonkhe.com



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