

Options for democratic reform of the KCL Council: consultation background

This note sets out options for the KCL Council, our ‘supreme governing body’, to become democratically accountable. It summarises how the most successful universities are the most democratic, the general benefits of democratic governance, the drawbacks of large numbers of self-perpetuating members, and the legal text for amendments to the KCL Charter and Statutes. It then asks for your views for the consultation, [by 12 April](#).

1. Democratic universities are successful

The world’s universities with the greatest long-term success are the most democratic. For example,

- Oxford has a 25 person Council, with 11 elected by staff, 4 external members approved by staff, and 3 non-voting students,¹
- Cambridge has a 25 person Council, with 16 elected by staff, 2 by students,²
- Harvard has 13 members among the ‘President and Fellows of the College’, and these can be vetoed by the ‘Board of Overseers’ whose 30 members are elected by alumni,³
- Toronto has a 50 member Governing Council with 14 elected by staff, 8 by alumni, 8 by students, 16 appointed by the lieutenant governor, plus the chancellor, president, and 2 of the president’s appointees.⁴

There are many governance models and no single ‘right’ option. However, a basic idea is reflected in these four examples: majority accountability through the vote, to staff and students or alumni.

2. The benefits of democratic governance

King’s College, London has a variety of options. There are significant benefits, short and long-term, from a majority-elected membership of the KCL Council. With more staff elected members, there will be gains in trust and confidence, and the pre-emption of conflicts. Long-standing evidence shows that when people participate in the governance of their workplaces, they are more productive, happy and innovative.⁵ With more student representation there may be similar benefits, although student voice usually tends to be more limited. Students are not just ‘consumers’, they are members of a community. Harvard and Toronto’s examples of alumni voice provide longer-lasting student engagement: ex-students engage, with career expertise, and feel part of a long-term community. From a financial perspective, it may be that donation levels are raised when people have real voice. It would also appear that people genuinely do care about the success of their current or former institution.

Options for KCL

KCL should ideally combine the best models, and acknowledge that best corporate governance practice means smaller boards. Without increasing the KCL Council size from its current 19 members, four examples could be:

1 University of Oxford, Statute VI [arts 4 and 13](#). Oxford University Act 1854 [ss 5, 16 and 21](#)

2 University of Cambridge, Statute [A.IV.1](#). Cambridge University Act 1856 [ss 5 and 12](#)

3 See further at www.harvard.edu/about-harvard/leadership-and-governance/

4 University of Toronto Act 1971 [s 2](#)

5 e.g. P Blumberg, *Industrial Democracy: the Sociology of Participation* (1974) chs 1 and 2, VV Acharya, RP Baghai and KV Subramanian, ‘Labor laws and innovation’ (2013) [56\(4\) Journal of Law and Economics 997](#), and Z Adams, L Bishop, S Deakin, C Fenwick, S Martinsson and G Rusconi, ‘The economic significance of laws relating to employment protection and different forms of employment: Analysis of a panel of 117 countries, 1990–2013’ (2019) [158\(1\) International Labour Review 1](#)

- (1) 8 members elected by academic staff, 2 by non-academic staff, 3 by students and 6 board-chosen or office-holding members (this is the KCL Act 1997 model, except the Council size remains at 19, not 35)
- (2) 8 members elected by all staff (academic or not) on a one person, one vote basis, 5 members elected by students and alumni, and 5 board-chosen or office-holding members (this is similar to Toronto)
- (3) 12 elected by staff, with some weighting according to seniority, 2 appointees from the KCLSU, and the 5 board-chosen or office-holding members (these are similar proportions to Cambridge or Oxford)
- (4) 5 members elected directly by staff, 3 appointed by the respective trade unions, 2 elected by students, and the remainder board-chosen or office-holding members. (The addition of union representatives mirrors Scottish universities.⁶)

3. Self-appointed and independent members

As a matter of principle, it is very difficult to justify members of a governing body appointing their successors without any accountability through the vote. Sometimes the interests of staff, students and the broader public may have to be balanced, but few people (if any) would accept that management itself should be its own interest group, let alone one that should monopolise governance. Management represents. At a university it should act in the public interest. The best guarantee for acting in the public interest is representation of staff, students and alumni, coupled with independent and lay members. Independent members can also be elected by staff (as in the case of Oxford's external members) or alumni (as in Harvard). Where there are independent or lay members, the best practice suggests they should mostly be elected.

4. Legal text for amendments

The options outlined above could be written into the existing Charter and Statutes of King's College, London with minimal disturbance to the existing framework.⁷ In the current Statutes, article 1 currently reads:

1. The Council shall consist of the following persons:

- (i) those appointed by the Council, on the recommendation of the Council's Nominations Committee, in accordance with the Ordinances, who shall number up to 20 members of whom 12 shall be lay members and 8 shall be members of the staff of the College to include the Principal and President.
- (ii) the President of the King's College London Students' Union ("the Students' Union").

This is unsatisfactory, because it lets existing Council members appoint themselves in perpetuity, excepting the KCLSU president. It falls far behind the King's College, London Act 1997. It fails to state that 'staff' members should be elected by staff. So, for example, to implement option (1) article 1 could be changed as follows:

1. The Council shall consist of the following persons in accordance with the Ordinances:

- (i) the chair, the principal, and 4 other members, appointed on the recommendation of the Council's Nominations Committee,

⁶ Higher Education Governance (Scotland) Act 2016 requires at least 2 academic staff, 2 trade union appointees, 2 student appointees, 1 elected by all constituents. Conflicts of interest, such as a union executive also being on Council, may be undesirable.

⁷ King's College London Charter and Statutes [art 1](#), and Ordinances, [B.4](#). King's College London Act 1997 [s 15](#).

- (ii) 8 persons elected by academic staff and 2 persons elected by non-academic staff,
- (iii) the president and 2 vice-presidents of the King's College, London Students' Union.

To implement this, or option (2) without distinction among academic or non-academic staff members and adding alumni, or option (3) with some seniority weighting, changes to the Statute should be accompanied by changes to the Ordinances. For example, for option (2), insert the following in Ordinance B4.1 Membership:

1. The Governance & Nominations Committee of the Council shall be responsible for putting before the Council recommendations for the Council's membership, having due regard to the provisions of Statute 1 which prescribes the composition of the Council's membership. **For elected members, the Committee shall organise elections in March each year. Elections shall be conducted by electronic means that ensure voting is secret, that all staff, students and alumni who are entitled to vote are informed, and that each person has one vote.** In bringing forward nominations for **appointed** membership of the Council the Governance & Nominations Committee shall also have due regard to the background, expertise and experience required within the membership of the Council and shall take into account any matters arising from relevant legislation as from time to time in force.

Similar changes could be made to implement option (4). In each of these cases, further considerations include:

- which software is most appropriate: KCL has already used adequate programmes for Academic Board and KCLSU elections,
- whether staff elections should be direct, or it is desirable to build upon indirect elections of staff through the Academic Board. The advantage of this may be simplicity: elections via Academic Board avoid a KCL-wide voting operation. The disadvantage is that staff may feel their Council connection is more remote. It also tends to confuse the role of an Academic Board (which, following its name, should have binding decision-power over academic affairs) with the governance function of the Council,
- whether weighted representation of faculties is desirable on the Council, or whether the Academic Board is the proper forum for this. The advantage of constituency-based representation is that all issues may be presented affecting all groups of staff. The disadvantage is that faculties differ widely in size, and the current 9 faculties may not match the desired number of members of Council.

In general, it would appear that for the Council, direct voting is the most workable, and is the model followed in Cambridge, Oxford, Harvard or Toronto.

5. Consultation

What model of governance would you prefer to see at King's, out of options (1) to (5), and why? From a Council with 19 members (as at present):

- **(1)** 8 members elected by academic staff, 2 by non-academic staff, 3 by students and 6 board-chosen or office-holding members (this is the KCL Act 1997 model, except the Council size remains at 19, not 35)

- **(2)** 8 members elected by all staff (academic or not) on a one person, one vote basis, 5 members elected by students and alumni, and 5 board-chosen or office-holding members (this is similar to Toronto)
- **(3)** 12 elected by staff, with some weighting according to seniority, 2 appointees from the KCLSU, and 5 board-chosen or office-holding members (these are similar proportions to Cambridge or Oxford)
- **(4)** 5 members elected directly by staff, 3 appointed by the respective trade unions, 2 elected by students, and the remainder board-chosen or office-holding members. (The addition of union representatives mirrors Scottish universities.)
- **(5)** Something else: please explain preferences and reasons by emailing FutureOfKCL@gmail.com

Please also feel free to add any reasons or comments below. If possible limit to 200 words:

Send your reply to FutureOfKCL@gmail.com by 12 April 2021, and share with all colleagues, students and friends. This survey is being conducted by KCLisDemocratic (petition at www.kclisdemocratic.net) and KCL-UCU.