

Memorandum of Regulation



Foreword

This Memorandum of Regulation is issued by the Gibraltar Regulatory Authority (“the Authority”) in its roles as the Gibraltar Higher Education Commission and the Gibraltar Authority for Standards in Higher Education to the University of Gibraltar (“the University”) in the exercise of its powers under regulation 3 of the University of Gibraltar (Regulation and Accountability) Regulations 2018. It sets out how:

- The Authority monitors the quality and standards of education in the University;
- The Authority monitors compliance by the University with its functions, duties and obligations under the University of Gibraltar Act 2015 (“the Act”);
- The Authority monitors the use by the University of its funds including any public funds provided to it;
- Other aspects of University performance are monitored;
- The University is expected to demonstrate effective governance and accountability;
- University autonomy and academic freedom are maintained.

The Authority is established under the Gibraltar Regulatory Authority Act 2000. It has been charged under section 46(1) of the Act to act as the Gibraltar Authority for Standards in Higher Education, and to provide quality assurance and safeguard academic standards in respect of the University’s academic programmes. The Authority has also been charged under section 49 of the Act as the Gibraltar Higher Education Commission to act as the regulator of the University by monitoring the University’s performance and its compliance with the Act. The Authority is also responsible for ensuring that overall student interests are protected and that there is adequate assurance that the University is effectively governed and managed, and financially sustainable.

The University is established under the Act with the power to grant degrees and with the purpose of providing education and research. It has been charged under the Act with the responsibility for maintaining autonomy and academic freedom and operating a mechanism to maintain the quality and standards of education. The Act sets out the University’s functions as well as its powers, responsibilities, obligations and duties. The Act also provides for the University’s governance and financial accountability.

The Authority and the University are in agreement that for the University to succeed it needs to be able to operate autonomously and for the academic portfolio to be determined by the University

according to its own educational strategy, subject to compliance with the purposes for which the University was established and with its functions, duties and obligations as set out in the Act. The management, administration and control of the property, revenue and business of the University fall under the auspices of its Board of Governors which has ultimate authority for academic governance.

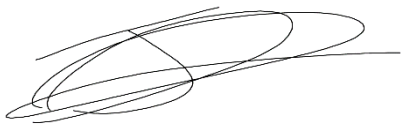
This Memorandum of Regulation sets down a proportionate regime of accountability and regulation that respects the University's self-governing status whilst at the same time enabling the Authority to derive the assurance that the Authority, students and other stakeholders need.

The Authority will take steps as necessary within its powers to ensure that the University takes appropriate action when the quality and standards of education or student interests are at stake, or if the University is at serious risk. The Authority will promote the University's autonomy and academic freedom and support the University's Vice-Chancellor and Board of Governors should autonomy or academic freedom be challenged.

The Authority acknowledges that last year the University successfully completed an International Quality Review (IQR) by the Quality Assurance Agency for Higher Education. This accreditation against international standards provides trust and confidence and indicates the University is well established and recognized.

Consequently, the Authority deems that the University's transitional period is over, and has reviewed and revised the Memorandum of Regulation in consultation with the University, as provided by regulation 3(2) of the University of Gibraltar (Regulation and Accountability) Regulations 2018.

This revised Memorandum of Regulation comes into effect from **1st November 2022**.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

John Paul Rodriguez
Chief Executive Officer
Gibraltar Regulatory Authority

Memorandum of Regulation

Introduction

This Memorandum of Regulation sets down the regulatory and accountability requirements on the University arising from the appointments of the Authority under sections 46(1) and 49 of the Act as the Gibraltar Authority for Standards in Higher Education and the Gibraltar Higher Education Commission respectively.

This Memorandum of Regulation will be reviewed from time to time by the Authority in consultation with the University.

Responsibilities of the University

The University is an autonomous statutory body established under the Act. Like all corporate bodies it is subject to the general law of Gibraltar. Specifically, it is subject to the functions, duties and obligations set out in the Act and is required to exercise its powers and responsibilities in accordance with the provisions of the Act. As a university, it has certain specific obligations including to:

- a. Regulate its own affairs.
- b. Use resources efficiently and effectively.
- c. Be publicly accountable.
- d. Provide reports and information as specified by the Minister with responsibility for the University ("the Minister") including an annual report, complete with financial statements.

The Board of Governors of the University is responsible for:

- a. The management, administration and control of the property, revenue and business of the University.
- b. Academic governance.
- c. Setting, determining and collecting fees.
- d. Administering funds, grants, etc.
- e. Determining student numbers.

This Memorandum of Regulation sets out how the University is required to demonstrate that it meets the above requirements. It also specifies other requirements of the Authority and how the Authority will exercise oversight. Overall, this Memorandum of Regulation covers:

- a. The quality and standards of education at the University.
- b. The student experience and student protection.
- c. Financial sustainability and the use of funds.
- d. Governance and management.
- e. Compliance with the Act.
- f. The University's autonomy and academic freedom.

This Memorandum of Regulation also specifies the actions that the Authority will take to monitor the University and to derive the assurances that it needs to discharge its duty and protect the interests of students and other stakeholders.

The Quality and Standards of Education at the University

The Authority, students and other stakeholders need assurance about the quality and standards of teaching and research. There are three interlinked sources of assurance:

- a. Annual assurance from the University itself.
- b. Periodic independent reviews.
- c. Data.

Annual University Assurance

The Board of Governors of the University has ultimate responsibility for all affairs, but it delegates responsibility for the management of academic affairs (teaching and research) to the Vice-Chancellor and for academic governance to the Academic Board. It is for the University to organise these matters, but the Authority needs regular assurance and requires under this Memorandum of Regulation that the annual report of the Academic Board be submitted to the Authority at the same time as it is submitted to the Board of Governors. The report should allow the Authority to understand at a high level how quality and standards have been overseen during the year and how the committee structure and student representation have operated. The Authority expects that the report would in exceptional circumstances discuss material adverse developments including significant criticism from external examiners, professional accreditation bodies, academic partners or research sponsors/contractors.

The Vice-Chancellor shall also submit a written assurance to the Authority confirming that:

- a. The methodologies used as a basis to improve the student academic experience are robust.
- b. The standards of awards for which the University is responsible have been maintained.

Periodic Independent Assurance

It is standard practice in higher education for universities to undergo periodic independent reviews of academic processes, quality and standards, and for the Authority to place reliance on the outcome of the reviews.

The University has achieved global accreditation from the Quality Assurance Agency for Higher Education (“QAA”), the UK’s independent quality body and a global leader in quality assurance for higher education.

The global accreditation, obtained for a period of five years, is awarded to international institutions who have passed the QAA’s rigorous International Quality Review (“IQR”), which measures global institutions against international quality assurance standards.

Notwithstanding, if future independent review outcomes should attach specific conditions, the Authority will wish to see a plan for addressing those conditions and expect to be updated on progress. If the institution does not meet the review standards, the Authority will engage urgently with the Board of Governors.

Data and Management Information

The University's student information system generates data to inform decision making and enable monitoring. The Authority requires the University to submit year on year data reflecting a five year time series covering:

- a. Student retention rates.
- b. Student completion and graduation rates.
- c. Graduate destinations including careers.

The Student Experience and Student Protection

It is for the University to ensure that the overall student experience meets the requirements of undergraduate or postgraduate education and that students derive full value from the fees that they pay. The Authority will seek to derive assurance that the student experience is satisfactory overall and will in part place reliance on the sources set out above. In addition, the University shall submit to the Authority:

- a. Data showing the relative trend in student complaints including any cases referred to the Gibraltar Public Services Ombudsman and student appeals.
- b. Summary level data from the annual student survey.

The Board of Governors shall annually review all relevant information to enable a conclusion to be drawn about the value for money that students are deriving from their educational experience. This information will include that concerning inputs, such as the resources devoted to teaching and learning, as well as outcomes in the form of qualifications and careers.

The University shall adopt a student protection plan which sets out what students can expect to happen should a course close. The purpose of the plan is to ensure that students can continue and complete their studies, or transfer to alternative provision, or they can be compensated. The plan shall be published in the University's Quality Handbook. Should the University overall be at risk, the Authority and the University shall engage with HM Government of Gibraltar ("HMGoG") to ensure students' interests are protected.

Financial Sustainability and the Use of Funds

The University was established by HM Government of Gibraltar with the expectations that it will be properly accountable and will remain solvent, year on year, taking into account student fees, grant income and other sources of revenue. It is also a charity which brings a public benefit disclosure requirement. The Authority will seek to draw on four sources of assurance concerning finance, all of which shall be made available to the Authority by the University:

- a. The annual financial statements audited by a qualified firm in accordance with the Gibraltar Financial Reporting Standard and the UK's latest Statement of Recommended Practice, Accounting for Further and Higher Education. The Authority expects that the auditor will provide an unqualified opinion but will wish to engage with the University if this is not the case.
- b. The University's annual report including confirmation that funds received from HMGoG have been applied as intended.
- c. A set of financial forecasts (business plan) prepared by the University's Vice-Chancellor and Chief Financial and Operations Officer, demonstrating the affordability of the strategic plan.

- d. Confirmation that the Minister has approved the forthcoming year's University budget.

Governance and Management

The University's governance arrangements are specified in the Act. The University is governed by a Board of Governors and the appointment of members and their terms of service is set down in the legislation.

The Authority expects the Board of Governors to evaluate itself against the relevant UK codes and standards at least every five years and to provide a report to the Authority on the outcomes. The Authority will derive assurance from this source.

The University's Audit Committee should provide an annual assurance to the Board of Governors and Vice-Chancellor with the Committee's opinions on the adequacy of internal control and risk management. These opinions are to be informed by the Committee's engagement with senior management, the risk register, any internal audit or other reviews, and any control issues raised by the external auditor. This annual assurance shall be submitted to the Authority to inform the Authority's assurance and risk assessment process. The Committee should conduct a self-evaluation against the latest UK codes of practice or standards, every five years and provide a report to the Board of Governors.

The University in consultation with the Authority is benchmarking itself against the latest codes published by the Committee of University Chairs (CUC).

Compliance with the Act

The Act sets out the functions of the University as well as its duties and obligations. On 27th May 2022, the Act was amended¹ providing the University greater discretion in discharging its functions and amending the rules covering the appointment and terms of service of Governors. The University shall issue an annual report to the Authority confirming that it has managed its affairs in compliance with the functions, duties and obligations set out in the Act. The University shall provide to the Authority such further information as the Authority may require should the Authority have any concerns about the University's compliance or manner of compliance with the Act.

The University's Autonomy and Academic Freedom.

The University's autonomy and its academic freedom are protected under the Act. This Memorandum of Regulation commits the Authority to respecting the University's autonomy and sets down that the Authority will only attempt to influence the governance and management of the University in exceptional circumstances, should the University fail to comply with its functions, duties and obligations under the Act and in respect of this Memorandum of Regulation. The freedom to develop an academic portfolio and to teach and research any subject or content (within the normal constraints of the law of Gibraltar and subject to compliance with legislation and the application by the University of funds in the manner for which they are intended) rests with the University: specifically with the Vice-Chancellor and Academic Board acting under delegated authority from the Board of Governors.

The Board of Governors and Academic Board shall confirm annually in, respectively, the corporate governance statement and the annual report of the Academic Board that the University has been able

¹ University of Gibraltar (Amendment) Act 2022, <https://www.gibraltarlaws.gov.gi/legislations/university-of-gibraltar-amendment-act-2022-6539/version/27-05-2022>

to operate without undue interference. Where the Vice-Chancellor feels that the University's autonomy or academic freedom have been at risk, the matter shall be referred to the Chief Executive Officer of the Authority who can take advice, determine a course of action and include the matter in the annual report of the Authority.

The University's Annual Accountability Return

Wherever possible, the information and reports required by the Authority under this Memorandum of Regulation shall be submitted by 31 December following the end of the academic year. There shall be one formal submission from the Vice-Chancellor on behalf of the University, confirming that the information is complete and accurate. A proposed template for the return by the University is as follows:

To: The Chief Executive Officer, the Gibraltar Regulatory Authority

Date:

From: Vice-Chancellor, University of Gibraltar

The Chair of the Board of Governors, University of Gibraltar

This is to confirm that for the year ended [], the University of Gibraltar has met its obligations under the University of Gibraltar Act 2015 and the Memorandum of Regulation issued by the Gibraltar Regulatory Authority to the University on []. The University is obliged to provide documentation and assurances as set out below and the relevant papers are attached.

Documentation

- a. Complete set of audited financial statements.*
- b. Copy of budget for coming year as submitted to Minister.*
- c. Copy of latest business plan.*
- d. Annual report of Academic Board.*
- e. Annual assurances from the Audit Committee.*
- f. Summary level time series student data on:*
 - o Recruitment*
 - o Retention*
 - o Completion and outcomes*
 - o Graduate destinations including careers*
 - o Complaints and appeals*
 - o Annual survey responses.*

Assurances

- a. The University has produced an annual report including reviews of operations, strategy and finance and a corporate governance statement which confirms that the University has an effective system of corporate governance, internal control and risk management.*

- b. *The University has published audited financial statements which give a true and fair view of the University's affairs.*

- c. *The Academic Board has confirmed to the Board of Governors in its annual report that the methodologies and evidence used as a basis to improve the student academic experience and student outcomes are robust and appropriate; and the standards of awards have been appropriately set and maintained.*

- d. *The University has complied with the requirements of the University of Gibraltar Act 2015 and this has included:*
 - *Discharging its educational duties*
 - *Discharging by the Vice Chancellor of their duties*
 - *Operating under the oversight of its Board of Governors*
 - *Using Government grant for the purposes intended*
 - *Managing financial affairs prudently*
 - *Providing required information and reports.*

- e. *The University has been able to operate throughout the period without undue interference from external bodies.*

- f. *There are no new material adverse developments concerning the University that need to be brought to the attention of the Authority.*

Signed and dated: Vice-Chancellor and Chair of the Board of Governors.

The Annual GRA Assurance Review: Timescale and Process

The Authority will process the information within two months and will write formally to the Board of Governors and Vice-Chancellor (the 'Formal Notification') in one of the following terms:

- a. The Authority confirms that the annual data and reports required from the University under this Memorandum of Regulation meet our requirements and we have identified no significant risks that need to be addressed at this time; or

- b. The Authority confirms that the annual data and reports required from the University under this Memorandum of Regulation meet our requirements except that in respect of [matter(s) to be specified]. We have set out our recommendations in respect of this matter in an Annex and request an early meeting with the Vice-Chancellor to address our concerns; or

- c. The Authority finds that the University is at serious risk and has not complied with this Memorandum of Regulation. We require an urgent meeting with the Board of Governors and Vice-Chancellor of the University. The Minister has been advised.

In the case that the Authority has established an advisory board pursuant to section 48 of the Act, the said board will scrutinise the draft decision of the Authority and make representations to the Authority's Chief Executive Officer prior to the Formal Notification being issued.

Summary

Overall, this Memorandum of Regulation requires the University to:

- a. Give an annual assurance on quality and standards informed by an annual report from the Academic Board.
- b. Arrange quality assurance reviews periodically and share outcomes with the Authority.
- c. Share data on student recruitment, retention, completion, destinations and complaints.
- d. Publish a student protection plan.
- e. Submit audited accounts to the Authority, complete with a corporate governance statement, statement of primary responsibilities and confirmation that HMGoG funds have been used for the purposes intended.
- f. Give an annual assurance of compliance by the University with the Act.
- g. Share long term financial forecasts (business plan) with the Authority.
- h. Submit any relevant additional information, as requested in writing by the Authority.
- i. Submit an annual budget for approval by the Minister.
- j. Produce, and share with the Authority, annual Audit Committee assurances on internal control and risk management.
- k. Arrange a five yearly self-evaluation of Board of Governors' effectiveness and share the report and action plan with the Authority.
- l. Arrange a five yearly self-evaluation of the Audit Committee and confirm that the report and action plan have been actioned by the Board of Governors.
- m. Notify the Authority of any unforeseen material adverse developments that concern quality and standards, finance or internal control.
- n. Alert the Authority to any threats to the University's autonomy and academic freedom.

The Authority will:

- a. Undertake an annual desk-based review of accountability submissions from the University and other information.
- b. Make an annual risk assessment of the University, to include regulatory and public interest concerns, and share this with the Vice-Chancellor and Board of Governors.
- c. Engage with the Vice-Chancellor and/or Board of Governors as appropriate should there be concerns that need to be addressed, questions to be answered, or if there is non-compliance with this Memorandum of Regulation.
- d. Take steps to support the University in the event of serious risks to students or organisational sustainability including commissioning its own focused reviews where appropriate.
- e. Discuss its annual engagement with the University, including the outcomes, in its own annual report.