



ANNEXURE 15

Governance and Management in Higher Education

Briefing paper prepared for the second national
Higher Education Transformation Summit, 2015

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Governance, management and leadership represent three separable but overlapping concepts: what do they mean for the transformation of South African universities?

The point of departure for governance is the legislative and regulatory framework. After the Constitution, the primary legislation to which universities are subject is the Higher Education Act which “prevails over any other law dealing with higher education other than the **Constitution**” (Section 70 HEA). With respect to transformation, one of the objectives of the Higher Education Act 1997 was to establish a single co-ordinated higher education system which promotes co-operative governance and provides for programme-based higher education to respond better to the human resource, economic and development needs of the country. Redressing past discrimination, representivity and equal access are indicated as well as the promotion of the values which underlie an open and democratic society based on human dignity, equality and freedom, respect for freedom of religion, belief and opinion.

Within the legislative framework, higher education institutions are juristic persons with the Council of the institution as the governing body of the juristic person. Councils consist of not more than 30 members with the number of persons and the manner in which they are elected to the council determined by individual institutional statutes. At least 60 per cent of the members of the council must be persons who are neither employed by, nor are students of, the institution.

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One of the main tasks of the Council is to appoint the Vice-Chancellor (VC) or Principal who is responsible for the management and administration (section 30 HE Act) of the institution and is in effect the chief executive officer. The Registrar and all other members of the executive are appointed to assist the VC in managing the institution.

With respect to race and gender equity policies and institutional culture in particular, the Act makes provision for Institutional Forums. Councils are required to take advice on transformation from the Institutional Forum. The Minister of Higher Education and Training has recently initiated a process to ensure that Institutional Forums play a key role in transformation of institutions.

Whilst the Student Representative Council (SRC) is referred to in the HE Act, its composition, constitution, functions and elections are determined by institutional statutes. As the governing body for students, SRCs have a significant leadership role to play and this includes transformation.

The legislative framework is clear: Councils govern and the VC and Executive must manage the institution. Senates are the bodies responsible for the academic matters of the institution: teaching and research in particular. To be effective a Council may and must delegate some of its powers under the Act (with some stipulated exceptions) to the VC who may further delegate to executive members.

Whilst volumes have been written on governance, leadership and management, at the operational level the boundaries between these differing roles are often blurred either intentionally or unintentionally, and this can lead to serious problems which from time to time have required intervention by the Minister.

Sound governance, strong management and wise and accountable leadership are essential requirements for transformation of the post school education and training sector as envisioned in the White Paper. Acting in the public interest, in other words in the interests of all the people of South Africa and in the interests of the broad development agenda, is the fundamental principle that should inform the exercise of governance, leadership and management. It should be self-evident too that for Councils to govern in the broad public interest, the composition of Councils should reflect the diversity of the South African public. Whilst this is necessary, it is not sufficient.

The Constitution and the Higher Education Act provide a sound and clear framework for the governance and management of public higher education institutions. To ensure relevance, there have been several amendments to the Higher Education Act of 1997 and it is currently under review. At the level below the HE Act, there are the institutional statutes which specify the composition of each institution's Council. It is important that these institutional statutes are reviewed from time to time in response to a changing context and in relation to transformation imperatives at the institutional level.

But even with a good legislative and regulatory framework, it often goes awry. Many analytic pieces have been written about governance lapses both locally and internationally in the public and private sectors alike. Based on these analyses and recent experiences of South African higher education institutions, what follows is an explication of some key factors that affect governance, management and leadership.

Election, Appointment and Composition of Councils

The intention of the legislation is that Council members do not represent a particular group or stakeholder body, and that each individual member must apply her/his mind in the interests of the institution and the wider public good. Furthermore, the stipulation that 60 percent of the Council must

not be staff or students is intended to ensure the independence of Council and to avoid conflicts of interest.

In practice many members are appointed through nominations by stakeholder groups such as local government, convocation, staff and student organizations. The question of whether the individual Council members appointed via these electoral processes represent the respective stakeholder group typically arises. Often the group that elected or nominated the individual believes that a particular Council member(s) represents their voices and interests. This can lead to situations where Council members may believe that they need a mandate before expressing a view or that their most important role is to protect or advance sectorial or factional interests. Examples of this include student Council members who find themselves having to deal with tuition fee increases and staff members who as Council members must decide on salary increases.

Institutional statutes typically specify the number of members elected by convocation or alumni associations. Although universities have thousands of alumni, the overall trend is that relatively small numbers of alumni actively participate in alumni bodies. This creates a scenario where narrow sectorial interests can take hold. The challenge for alumni groupings is to focus on the wider long-term interests of the institution.

Some Essentials

The mix of expertise and skills among Council members is critical for good governance especially financial expertise and experience. Such expertise is also necessary at the level of the executive management. A key area where expertise is essential is finance. University financing is complex consisting of several funding streams, each with its own set of requirements. Also related to finance is the matter of remuneration of Council members. Council members should serve motivated by the desire to contribute to the public good rather than self-interest or for material gain. It is acceptable that costs associated with attendance such as travel are reimbursed or paid for by the institution and an honorarium is paid. A cap could be set to avoid increases in the frequency of meetings in order to increase payments.

Then there are the basics: attendance and preparedness. Being at meetings regularly and preparing for the meetings is basic but critical. Many busy individuals take on a long list of boards and then find it difficult to manage their time. On the other hand the management must consult in planning meetings, ensure advance notice and timely distribution of documents so that members have ample time to prepare. Universities are notorious for distributing voluminous documentation making it difficult for Council members to exercise their duties diligently. Decision-making becomes compromised when there is inadequate information. The Vice-Chancellor and executive, typically the Registrar, must ensure that Council has adequate information in order to make informed decisions.

Respect, Trust and Public Good

Within a Council there are 30 individuals usually from diverse backgrounds with a range of skills and experiences. Each individual should feel respected and as a collective there should be trust among the members and between the Council, the Vice-Chancellor and the executive management. Sub-groups, insider channels of communication with line managers and the like can lead to suspicion and lack of trust. It is often the case that staff members, students, businesses and political groups try to lobby Council members on particular issues. It is helpful when Council members declare that this has happened. Good governance requires honest and robust debate. Interests should be declared openly

and should be subject to robust debate and challenge. Factionalism and cabals diminish good governance and sound management. Political factions focussed on narrow interests can lead to breakdowns.

The relationship between the VC, the Chairperson of the Council and Council members should be open and constructive with the Council members feeling free to provide critique, advice and guidance. Typically all executive members attend Council meetings and not only the VC. This fosters accountability and openness and this is further enhanced by the inclusion of students and non-executive staff as council members. The VC should not be a member of any subcommittee that decides on her/his remuneration and the audit committee must meet the requirement of independence.

The best interests of the institution and public accountability are the guiding objectives. A code of conduct, clear statements of values, explicit commitment to anti-discrimination, equity and fairness should be the navigational markers for the conduct of the Council and management. Before assuming office members should declare any business, commercial or financial activities undertaken for financial gain that may lead to a conflict or possible conflict of interest with the institution.

Strategy, transformation and sustainability

Councils are responsible for institutional strategy. Transformation is an integral component of institutional strategy with key considerations being how the institution can best serve and/or align with public good imperatives and social developmental priorities. Enrolment growth, enhancing access, determining tuition fees and staff salaries, pursuing research agendas and creating enabling conditions are all interconnected issues of strategy and transformation. Council and Senate may jointly nominate committees to perform functions that are common to the Council and the Senate. Enhancing access and student success, a transformation priority, must be based on a deep understanding of student life and students' experiences and the SRCs have a vital leadership role in this regard.

Accountability

It is the Council's duty to require regular reports from council sub-committees, the senate and the Institutional Forum and the management. The recent changes in reporting regulations are designed to enhance accountability with particular attention to transformation. Performance management systems with measurable indicators related to transformation can be effective in monitoring and evaluation. Annual institutional plans that are approved by Councils as well as the annual reports on performance, both of which are submitted to the Minister, should not be seen as instruments for bureaucratic compliance, but rather as useful mechanisms for improving public accountability and fostering transformation.

Concluding Remarks

Debates about higher education and transformation tend to assume an *a priori* understanding of the nature and role of universities. The history of universities shows that with changing times there have been fundamental changes in in the core mission of universities - teaching, then teaching and research and more recently community engagement, entrepreneurship and innovation. As Richard Pring noted,

universities are “part of a wider network of social and educational institutions and this network will constantly be changing in recognition of or in response to changing economic and social factors”.²

Across the world there is a diversity of universities, estimated at about 18 000. Some are dedicated almost entirely to professional and vocational education and training; others continue the tradition of intellectual pursuit organised by disciplines. In many universities, old traditions based on the pursuit of truth and critical inquiry sit alongside the new which are shaped by professional bodies that focus on competencies, customer relations and client services. Transformation is about the identity and role of universities in South Africa today and in the future. This is a central issue for university leaders and it is a question that should frame choices about institutional strategies and plans.

The concept of cooperative governance presumes a shared understanding of the distinct, equally important and functionally interdependent roles and responsibilities of each of the governance and management structures. What is also required is that through engagement and dialogue we deepen our understanding of the contribution higher education must make to building an inclusive society, providing equal opportunities and helping all South Africans to realise their full potential.

² Pring R. *The Changing Nature of Universities: economic relevance, social inclusion or personal excellence?* Institute for the Advancement of University Learning, University of Oxford. 2001, p. 1.
www.learning.ox.ac.uk/iaul/ProfPring.pdf