



Seminar on

**Governing bodies of higher education institutions:
Roles and responsibilities**

Lessons from the Corporate World

by

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1. The contribution of non-executives (NEDS)

1.1 Changing times and responsibilities

- Old
 - an honour without responsibility
 - a free lunch
 - cronies
 - protection of self interest
- Now
 - legal and fiduciary duties
 - responsibility to contribute and be judged
 - responsibility to take into account the interests of stakeholders
 - observance of Nolan principles of public life
 - potential for legal liability
- Days of the passive, self interested “you can rely on me”, NED are over

1.2 What makes a good NED in the private sector?

- A recent major private survey showed the following skills were valued in descending order
 - breadth of experience
 - team player
 - challenging and independent, but supportive
 - committed and prepared
 - good communicator and even better listener
 - analytical and sound judgment
 - visionary and creative
 - good inter personal skills
 - strong enough to command respect but not opinionated
 - open to feedback, evaluation and mentoring
 - The best NEDs have a good mix of all of these factors
- What is not wanted
 - the converse of the previous list and, particularly, not
 - passenger or nodding dog
 - critical but not supportive
 - “I’m here to represent” mind set
 - divisive and dogmatic
 - Prima Donna tendencies
 - overall, a tendency to try to be the executive or replace outside advisers
- Where do good NEDS come from?
 - the ranks of seasoned executives
 - Increasingly, from portfolio NEDS
 - search and selection
- Essentials for appointment
 - mix of skills
 - time commitment to learn and contribute to Board and to its committees
 - willingness to be judged
 - no rights of tenure
 - a sense of excitement about the job
- Sector knowledge not necessary – what are needed are real business experience and sound judgment

1.3 What makes a good Board?

- Board a team
- complementarity of the team by mix and balance
- good chemistry amongst Board members
- functions as a unit accepting cabinet responsibility
- diversity adding strength
- a mix of executive directors and non-execs
- a good Chairman

1.4 *What makes a good Chairman ?*

- Commands respect of the executives and the NEDs because of track record and style: an undoubted leader and not a figurehead
- Has ready ear for executives, particularly the Chief Executive, and NEDs
- Facilitates the Board functioning as a unit or team, acting as conductor would of an orchestra
- Ensures Board agenda compelling
- Handles any potential for conflict between the executives and the NEDs
- Acts as a coach to Board Members
- Commands respect of stakeholders and the market place

1.5 *How transferable are these qualities to HEI?*

- They should be very transferable
- But, a NED in the private sector is working in the same business model as his own background i.e. a Board where executive directors and non-executive directors are mixed and balanced
- But, the private sector Board is likely to be much smaller than HEI Board and possible to make a real contribution at Board and Committee levels. In HEI Board large and more likely to make a contribution at Committee level or in strategy discussions
- The NED must treat the HE business as a business, which is what it is
- As NEDs will be used to questioning and approving strategy for sustainability, they should see this as one of the most important contributions they can make to their institution
- Chairman's ability critical
- With the absence of executive directors on the University Board, the NED must not be tempted into trying to be an executive
- How involved should/dare he become?
- In the private sector, the NED has to consider the interests of shareholders, staff, suppliers and business partners, customers, the environment and the community in which the business operates
- In higher education, the NED needs to understand the needs of stakeholders, staff, students and others dealing with the University, the environment and the community in which the University operates
- In private sector NED is paid: in HEI not paid

2. Translatable good practice from the corporate world

2.1 *Effective induction and knowledge gathering*

- This should start with the recruitment process where general background should be made available
- The interview for Board membership should be a two way process
- Due diligence should be encouraged: the Combined Code contains two pages of due diligence suggestions
- Issue a proper appointment letter covering
 - what is expected in contribution
 - time commitment
 - Committee involvement
 - term
 - induction and continuing learning
 - assessment
- There should be real induction – not just two or three sessions, but an intensive induction over six to twelve months and ongoing, with regular exposure to executives and stakeholders. An overload of paper is not the answer
- The best way to understand how any business works is to join the Audit Committee
- Coaching by the Chairman and/or mentoring by an old hand very helpful
- Regular Seminars for Board members
- An annual Board review day for big issues and monitoring progress
- Annual Board appraisal
- Annual individual NED appraisal

2.2 *Corporate governance, risk, equality and diversity*

- NEDs should ensure that corporate governance principles prevail and should not allow themselves to be treated as a substitute for it
- NEDs should contribute to and question risk assessment and management but not take the responsibility for these
- In both cases, their experience in the private sector should enhance and not be a substitute. The HEI must do its own work
- They should bring their experience of diversity and equality, but, again, should not be a substitute for the University's own framework

2.3 *How important are Committees?*

- In the PS, they are important for corporate governance reasons i.e. majority of NEDs in the form of audit, nominations and remuneration
- In the PS, the Board tends to be smaller and, therefore, able to be involved in policy discussion and decision making, rather than simply approving: in general NEDs tend to be more “active” at board level
- In HE, Boards tend to be large and somewhat cumbersome and, whilst decisions are debated and made, many items are by way of information or report and a great deal of reliance has to be placed on the Chairmen of the main Committees to report what they feel the Board should really know about their work and individual decisions and recommendations
- In HE, an individual could feel some frustration from lack of action if not involved in Committee work
- In HE Committees of five or six allow NEDs to have an active dialogue with the executives and relevant third parties, e.g. internal or external auditors in Audit and there is more time for explanation, questions and debate
- In HE, the wise new NED will grasp at the chance to go onto Audit – the quickest learning ground. A refusal flags up a question mark

2.4 *How will you know whether your general commercial experience has made a difference? How to assess effectiveness*

- If you are honest and have a good mix of the real skills of a NED, you will have a gut feel from
 - Is the HEI to which you belong making real progress? (If it is, you may not have contributed, but, if it is not, you have certainly failed to contribute!)
 - The executive team and academic board welcome rather than resent your presence
 - Annual (and not 5 yearly) appraisals essential at levels of
 - Board
 - Committee
 - individual NED
 - and don't forget the Chairman
- a typical PS appraisal form is in the Appendix
- Exposure to Annual “General Meeting” of stakeholders

3. Sustainability – messages from the corporate world

3.1 *This is the most fundamental task of the HEI (and, therefore, its Board), against a background of*

- changing funding
 - reappraisal of research
 - a changing world market
 - changing government objectives
 - regulation
 - widening participation
 - third leg or mission
-
- In the PS world, the fundamental aim of any private sector business is financial sustainability in its changing market place
 - The experience of the private sector should help a university to move from traditional university to a businesslike HEI, which is (see On the Edge)
 - market driven
 - proactive and strategic
 - portfolio financing
 - investing for the future
 - managed rather than administered
 - risk aware, rather than risk averse
 - This is where the PS can probably make its most helpful, critical but supportive, contribution helping to guide the university into private sector ways, because PS:
 - never stands still
 - plans ahead, but remains flexible
 - thinks strategically
 - measures risks
 - seeks advice
 - invests for the future

All of this experience should support the Executives thinking so that Board can, through the development of strategy, feel comfortable in accepting the responsibility for the Mission and Education Character of the University

- In PS a great deal of reliance is placed on key performance indicators (KPIs) and these should be used to test progress to plan, strategy, mission.

3.2 *The Surplus*

- It is not unseemly to generate a surplus in the HEI world: it is an imperative and whilst the PS would not countenance anything below 10%, at the least, the HEI world should be aiming at 6-8% improving. HEFC's 3-4% not enough
- Without it, how can a HE invest in its future?

3.3 *Cash is king*

- In the private sector, companies making a profit but running out of cash are legion: cash is king in every walk of life.

3.4 *Leadership and managing change*

- PS never afraid to employ the very best
- recognise constant change needs managing and is not frightened of it
- on a mission of constant improvement
- always looking to let leadership have its head and tends to grow its own

In PS many of today's best managers have learned their management trade – no reason for Academics not to follow suit. The PS experience is there to borrow from of the professions

3.5 *Is the grass always greener?*

Why are so few top HEI appointments made internally? The PS encourages management progression.

3.6 *Up and away as v. down and out*

Why are so many Vice Chancellor appointments made to people as their last full time job before retirement? In the PS, a Chief Executive appointment is likely to be made of someone who still has a career ahead beyond that appointment.

3.7 *The unreliable Finance Director*

In the PS it is as much a sin and equally sackable to be significantly over budget as it is to be significantly under budget.

3.8 *Do we really know the cost?*

3.9 *Why do we do something at a loss?*

3.10 *Is outsourcing sensible?*

The PS concentrates very hard on these three. Do HEIs really do the same?

3.11 *Lessons of new developments*

They always

- take longer
- cost more
- hit an unexpected snag

This must be as true for HEI as it is for the PS.

3.12 *The 80:20 Rule*

It will apply as much to HEI as to the PS. 80% of effort produces 20% of results and 20% of effort produces 80% of results. Also, it takes four times as much effort to win a new market as it does to consolidate existing.

3.13 *Senior Management Remuneration Packages*

- in the PS, senior management is usually willing to sacrifice salary for a potential profit share or share options
- I do not see the same attitude in HEI

3.14 *Cost base down and cost base up*

It is very much easier to control a cost base going down, although painful, than it is to control a cost base creeping up.

3.15 *Health and Safety should be a standard item.*

3.16 *The PS has a tendency to overprovide.*

In HEI, I see a tendency to underprovide.

3.17 *Why head on competition between HEIs?*

In the private sector, we search for a unique selling point (USP) to differentiate us, rather than head on competition. Choice is fine, but it is important to be famous for something.

3.18 *Use of Business Schools*

Why is private business a believer in using the skills of HEI Business Schools when HEI senior management does not seem to do the same?

3.19 *In and on the business*

In the PS, the Executives work "in the business" and it is the duty of the Board to work "on the business". This should be easily transferable, bearing in mind that the HEI Board must not stray into management

4. *Hot Topics*

4.1 *Relationship with Academic Board*

- Board responsible for mission and educational character of the University and approves the strategy to achieve this and sustainability through continuous investment
- But tends to be a big grey area or contested territory among
 - Board with ultimate responsibility
 - Executive which advises on strategy and sees to execution
 - Academic Board (usually chaired by CE) which has day to day responsibility for education and research against third party assessments such as QA and RAE. On a bad day, Board keep out!

- Written reports from AB to Board
- Academic Board member (not CE) speak to the report
- Joint exercises between Board and Academic Board – get to know you, understand you and constantly update. Not in the main done, though Chairman may be in the loop

4.2 *Size of Board*

- At 20 or more it is too cumbersome for real discussion and, therefore, a great deal of reliance has to be made on the work of the Committees and the Reports of the Committee Chairman
- However, the main board has to be sufficiently large that there are plenty of people to serve on Committees, which should always try to operate above a bare quorum. Bear in mind that there should be no cross over between Audit and Employment and Finance

4.3 *Political Correctness: bain or boon?*

4.4 *Box ticking: NEDs not a safety valve*

4.5 *The curse of the representative member*

4.6 *Should NEDs in HEIs be paid?*

- Changing times and responsibilities
- Cannot rely anymore on people having a social or other conscience or wishing to contribute in some way i.e. put back into the community
- The best people usually have many offers and many of them are paid
- The PS rewards time and risk and there are both
- Reward properly to show that contribution is valued and not in a token way or so called compensation for depriving their main businesses of some of their time
- University business is big business
- What would be a fair return for a non-executive in the private sector for similar time spent and responsibility?
 - Chairman of Board £30k +
 - Committee Chairman for main Committees £20k +
 - NED £10-15k
- NEDs are not sitting with nothing to do. They have to prioritise and being paid can assist in prioritising
- Pay brings a greater commitment
- May attract younger people
- With a 25 strong Board with 15-20 independent NEDs, cost at PS “prices” could be £250k+. Might make us think again about optimum Board size and something less than PS “prices” could be acceptable

4.7 *Youth v experience*

4.8 *The role of the champion: internal and external*

4.9 *Period of service and succession planning*

- In the PS world, NED usually on six months’ notice and re-elected by shareholders no less frequently than every third year. (Three years’ contract of Combined Code a myth.)
- In the University world, usually two terms of three years and, very often, for Board and Committee Chairs, nine years and, exceptionally, twelve years
- Whilst extended terms may be important in some cases for continuity, HEFCE is not keen, and succession planning should be in place to achieve progressive renewal/refreshing
- Six years about right for maximum contribution except, possibly, for Chairman or Committee Chairman where sometime needed to “learn ropes”
- Three to five years maximum as Chairman or Committee Chairman

CONCLUSION

Despite anything that I have said, I believe that HEIs are in good shape for a number of reasons:

- their own efforts and the efforts of talented senior management
- undoubted help and guidance from HEFCE in the UK
- increasing help and guidance from IMHE in such publications as "On the Edge" and through seminars, conferences and studies
- a growing understanding on the part of Board Members as to how they might better contribute to their Universities.

APPENDIX

Board performance evaluation form:

Please consider each of the following questions and score them 1 to 5 by ticking the appropriate box.

- 1 = **Poor**
- 2 = **Unsatisfactory**
- 3 = **Satisfactory**
- 4 = **Good**
- 5 = **Very good**

Replies will be collated and discussed at an early board meeting.

		1	2	3	4	5	na	comment
1	How well has the Board performed overall?							
2	What has been the Board's contribution to the testing and development of strategy?							
3	What has been the Board's contribution to ensuring robust and effective risk management?							
4	Is the non-executive contribution to board debates effective?							
5	Is the composition of the Board and its committees appropriate, with the right mix of knowledge and skills to maximise performance in the light of future strategy?							
6	How has the Board responded to any problems or crises that have emerged and could or should these have been foreseen?							
7	Are the matters specifically reserved for the Board the right ones?							
8	How well does the Board communicate with the management team, company employees and others?							
9	How effectively does the Board use mechanisms such as the AGM and the annual report and accounts?							

		1	2	3	4	5	na	comment
10	Is the Board as a whole up to date with latest developments in:							
10.1	The economy/business environment?							
10.2	Regulation?							
10.3	The market?							
11	How effective are the Board's Committees?							
11.1	Audit							
11.2	Remuneration							
11.3	Nomination							
12	Is appropriate, timely information of the right length and quality provided to the Board and is management responsive to requests for clarification and amplification?							
13	Does the Board provide helpful feedback to management on its requirements?							
14	Are sufficient Board and Committee meetings of appropriate length held to enable proper consideration of issues and is time used effectively?							
15	Are Board procedures conducive to effective performance and flexible enough to deal with all eventualities?							
16	Are the authorities delegated to management appropriate?							
17	Are the arrangements for making decisions between board meetings appropriate?							
18	Is the Chairman demonstrating effective leadership of the Board?							
19	How well does the Chairman manage relationships and communications between members of the Board?							
20	Are relationships and communications within the Board constructive, open and frank?							
21	Specifically, is there an appropriate "balance of power" between the Chairman and the CEO?							

		1	2	3	4	5	na	comment
22	Are the processes for setting the agenda working?							
23	Are Board members able to raise issues and concerns?							
24	How effective is the service provided by the Secretary in terms of:							
24.1	circulating Board papers?							
24.2	minuting meetings?							
24.3	generally?							
25	How effective are individual directors?							
25.1								
25.2								
25.3								
25.4								
25.5								
25.6								

Any additional comments?

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Name

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Date