



Seminar on

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

**Conduct of governing bodies**

*by*

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**Introduction**

With the strengthening of the ‘steering core’ of universities (Clark, 1998), the role and behaviour of governing bodies at the central level of the higher education institution becomes more and more important. A common theme across various countries seems to be that governing bodies are playing increasingly prominent roles relative to councils and senates. Furthermore, corporate-like structures are adopted in various systems, increasingly external stakeholders become involved in institutional decision-making and in a number of systems, academic bodies have been stripped of their traditional powers (Amaral, Jones, & Karseth, 2002).

In such shifts in governance, dilemmas come to the fore relating to issues of the concentration and distribution of power, corporate versus academic governance, democracy and representativeness, transparency and accountability. Or better: existing dilemmas become temporarily more obvious, visible and exposed to scrutiny, for it would be a misunderstanding to assume that present-day changes in governance *cause* these dilemmas. The issue of the tension between e.g. corporate and academic governance was already highlighted by a famous Dutch historian in the late 1940s: “... those who know how senates work in practice, will not consider to confer powers of an effective governing body to this mollusc” (Huizinga, 1951, p. 24 quoted by De Boer, 2003, p. 18). This paper will attempt to address these dilemmas, particularly focusing on the conduct of governing bodies. Before that, first some conceptual clarification is needed.

## Conceptual confusion ... and clarification

Given the various traditions across the globe, governments (and other stakeholders) have developed different conceptualisations and languages to portray the governance of their particular higher education systems and institutions. Governance in higher education is generally to be understood as "... a range of organisational forms, modes of control and regulatory practices through which individual and collective behaviour is routinely monitored, evaluated and modified" (Reed, 2002, p. 164). Different bodies can play a role in governance: senates, councils, courts, etc., that together constitute the governance structure.

But these governance structures materialise rather differently across the globe. Harman (1992) broadly distinguishes three modes, the continental mode, in which authority is shared by faculty guilds and state bureaucracy; the UK mode, in which authority is shared between faculty guilds and institutional trustees and administrators; and the US model that is characterised by weaker faculty governance and stronger trustees and administrators. The broad distinction cannot do justice to the rich variety across and within higher education systems (see particularly Shattock, 1999 for variety in governance across the UK) and it should also be kept in mind that Harman wrote his contribution about 15 years ago. Nevertheless, the classification highlights that basically three bodies play a role in higher education governance.

Governing bodies: collectively *responsible for overseeing the institution's activities* (Council, Governing Board, *Raad van Toezicht*, *Recteur d'Académie*, ministries, Board of Trustees). Governing bodies determine the institution's future direction and should foster an environment in which the institutional objectives are to be achieved. In more concrete terms: approving the mission and strategic vision, long-term business plans, annual budgets, appointing the head of the institution as chief executive, ensure and monitor systems of control and accountability, and monitoring institutional performance.

Executive bodies: collectively *responsible for day-to-day management of in the institution* (Vice-Chancellor, President, Principal, Executive Board, *Rektor(at)*, *College van Bestuur*, *Président*). Executive bodies are supported in their tasks by the institution's administration (Registrar, Bursar, *Secretaris*, Directors, *Kanzler*, *Secrétaire général*).

Academic bodies: collectively responsible for or advisory regarding academic matters within the institution (Senat, Senate, Academic Board, Universiteitsraad, Conseil d'administration, Conseil scientifique, Conseil des études et de la vie universitaire). In some cases, responsibilities are strictly limited to academic affairs (research and teaching), in many other cases, duties relate to a broader set of issues. The German Senat, for instance, decides on the Grundordnung, which is the university constitution. This task is in most of the UK institutions in the hands of the governing body (Council), the academic body (Senate) possibly advises in this matter.

As the German-British example illustrates, the three-part division cannot do justice to the underlying variety in roles, functions and the division of power across the bodies. Moreover, the situation becomes even more complex when the following issues are considered. First, in some countries, individuals can only be member of one of the three types of bodies (e.g. continental mode), in other countries (e.g. the UK mode), membership may overlap. The situation in the UK makes it therefore also difficult to decide in which body most of the

powers reside, for this may be more dependent on persons than on bodies. Second, a huge variety exists regarding the appointment, election and/or co-optation of members in the various bodies. Third, the sizes of the bodies differ considerably across countries: in some countries senates may comprise more than 50 members, whereas other countries have relatively small senates and councils. The governing body (*Raad van Toezicht*) in e.g. the Netherlands consists of “only” five members. Fourth, formal powers allocated to bodies do not unveil the full picture regarding powers in practice. Whereas the French *Conseils* may seem powerful, Musselin and Mignot-Gérard (2002) point out that – historically – the *Conseils* were either “rubber stamping” or making no decisions. Although they play a more important role nowadays, they are not yet a major force in institutional policy developments. In addition to this point, it should not be forgotten that academics have many informal powers to make their point, influence decision-making and achieve their objectives (De Boer, 2003).

### **Governing bodies**

As has been set out in the introduction, in many countries governing bodies have become more important. One explanation for their increasing importance is the general trend of governments stepping back from higher education (Neave, 1998; Neave & Van Vught, 1991). Regarding governance structures this has – to sketch very roughly two developments – either implied (a) an increase of autonomy at the institutional level without changing the governance structures; (b) an increase of autonomy at the institutional level with the government’s and/or stakeholders’ “request” to institution to (better) account for its activities (c) an increase of autonomy at the institutional level and – seemingly paradoxically – a forced upon change of governance structure to be assured of the institution’s accountability. The development under (a) is visible in systems like France and Germany; the development under (b) seems to match the UK experience and the developments under (c) are noteworthy in Austria and the Netherlands.

### **Country experiences regarding governing bodies**

#### ***United Kingdom***

Much of the change in governance structure took place in the aftermath of the Jarratt (1985) and Dearing (1997) committee reports. Additionally, the demise of the binary system has brought about changes in the governance structure for the post-1992 universities. The Dearing committee report argued that governance structures needed to be updated. A major issue was the need for greater control of governing bodies and stronger roles for external stakeholders in governance. Furthermore, the report argued for a move to smaller councils, to frequent reviews of the body itself and its (and the institution’s) effectiveness (actually enforcing compliance threatening the withdrawal of funds), more openness in terms of the outcomes of these reviews (annual reports) and the development of a governance codes of practice. The recommendations of the committee have been criticised for its failure to prove that governance structures actually were ineffective (Ackroyd & Ackroyd, 1999; Knight, 2002), with reference to the positive review of university governance of the 1996 Committee on Standards in Public Life. Neither do the recommendations take into account the potential shortcomings of the corporate model. Not only do many authors express a general distrust of implementing corporate models in higher education, Knight (2002) particularly addresses problems related to lay involvement: inadequate oversight, little involvement in strategic planning, ill-considered ventures have been entered into, major financial problems, alleged

financial improprieties by senior management. Knight maintains that reasons for these problems can easily be found: commitment of lay governors is low due to the fact that the work is unpaid; laymen are under-trained; are dependent on reliable, timely and full information from the executive; audit processes fail to provide independent checks to governors; there is insufficient range of expertise through co-optation process, and clerks to the governing bodies are insufficiently dependent. The very limited – and small-scale – empirical research available (addressed by Bennett, 2002) indicates that governing bodies are efficient but passive and ineffective bodies; ineffective in terms of their impact on strategic plans and major governance issues.

To address the many suggestions from different stakeholders on governance, the Committee of University Chairmen (CUC) has taken up the invitation, not wholeheartedly – but to some extent stimulated by a number of governance scandals at universities and colleges, and produced Guides on governance in the late 1990s. The codes were particularly addressing issues around general principles of governance. The Lambert Committee (2003) reinforced the debate and argued for more corporate-type structures, including a more profound role for governing boards (instead of senates) and more involvement in these boards of laymen. The latest version of the Governance Code of the CUC (2004) was adopted in light of the recommendations of the Lambert Report.

### ***The Netherlands***

Governance issues were discussed at length particularly at the end of the 1980s and beginning of the 1990s. However, the debates were not yet conclusive to be able to integrate a proposal for change in the 1993 Higher Education and Research Act. It took until 1997 before considerable changes were carried out regarding the governance structure (Modernisation of Governance Act). One change related to the introduction of the *Raad van Toezicht* (Supervisory Board would be the most adequate English term). The Supervisory Board is – in the terminology set out above – a governing body; it has a supervisory, advisory and conflict-resolving task. It appoints the members of the Executive Board (*College van Bestuur*), and is accountable to the Minister. A recent evaluation of the Modernisation of Governance Act (De Boer, Goedegebuure, & Huisman, 2005) pointed out that the position of the *Raad van Toezicht* is worrying. A representative survey among staff, managers and students turned out that its position is unclear in terms of its activities, its position and its responsibilities. Part of the confusion stems from interpretations of its tasks, some think the *Raad van Toezicht* is responsible for the institution's strategy, policy, etc. whereas it – according to the regulations – “only” is responsible for supervision on governance and management of the university. The report recommends to the Ministry to provide more clarity on the interrelationships between the Minister, the *Raad van Toezicht* and the Executive Board.

Independent from the changes in the university governance structure, the Dutch higher education system was – at about the same time, beginning of this century – confronted with rumours about, complaints regarding and some proof of fraud at the institutional level. The institutions were blamed for having either committed fraud by reporting enrolments of students that actually were not registered or should not have been registered or have acted in an irresponsible way regarding the registration of their students. Consequence of the institutions' behaviour was that they may have received too much governmental support, based on inadequate student numbers. The fraud affair – not solved yet, for the committee that investigated the issue has made some mistakes in their judgements, currently inspected by

legal courts – has particularly raised the issue how this could happen. In other words, the available control and accountability mechanisms obviously have not worked properly. Particularly, governing bodies were addressed and asked how it was possibly that these practices escaped their attention. Because of the affairs in combination with a current revision of the Higher Education and Research Act, the government is now rethinking the balance between hierarchical control (Minister - institutions) and horizontal control (stakeholder involvement in governance at different levels of the institution). In current debates, there seems to be a consensus emerging on developing a code of good governance for higher education institutions, already implemented by the *hogescholen* (Commissie Glasz, 2000).

### **The “problems” with governing bodies**

Based on the different experiences in various countries, the following generalisations can be made:

- changes in the governance structure (particularly introducing or strengthening the role of governing bodies) have been implemented in many countries without thought-out analyses of the benefits and shortcomings of the existing governance structures; many of the changes have been implemented on the basis of the argument that structures were inefficient and ineffective and that the implementation of corporate-type models would be the solution;
- the reshuffling of the powers among governing, executive and academic bodies have brought about a number of questions around who’s responsible for what and to whom. In other words, arrangements that were institutionalised and taken-for-granted under previous governance structures have been changed and led to (sometimes longstanding) confusion about powers, responsibilities and duties;
- the reshuffling in combination with the entrance of a considerable amount of lay persons in the governance structure raises the question whether lay persons are sufficiently prepared in terms of commitment, involvement and necessary expertise for the job. It led in various countries to discussion on the need for codes of governance that would pay attention to induction issues, do’s and don’t and transparency issues;

### **References**

- Ackroyd, P., & Ackroyd, S. (1999). Problems of university governance in Britain. Is more accountability the solution? *International Journal of Public Sector Management*, 12(2), 171-185.
- Amaral, A., Jones, G. A., & Karseth, B. (2002). Governing higher education: Comparing national perspectives. In A. Amaral, G. A. Jones & B. Karseth (Eds.), *Governing higher*

- education: National perspectives on institutional governance* (pp. 279-298). Dordrecht: Kluwer.
- Bennett, B. (2002). The new style boards of governors - Are they working? *Higher Education Quarterly*, 56(3), 287-302.
- Clark, B. R. (1998). *Creating entrepreneurial universities: Organizational pathways of transformation*. Oxford: Pergamon.
- Commissie Glasz. (2000). *De raad van toezicht in het HBO [governing bodies in higher professional education]*. The Hague: HBO-raad.
- Committee of University Chairmen. (2004). *Guide for members of higher education governing bodies in the UK. Governance code of practice and general principles*: CUC.
- De Boer, H. (2003). *Institutionele verandering en professionele autonomie*. Enschede: Center for Higher Education Policy Studies.
- De Boer, H., Goedegebuure, L., & Huisman, J. (2005). *Gezonde spanning. Beleidsevaluatie van de MUB*. Enschede: Center for Higher Education Policy Studies.
- Harman, G. (1992). *Governance, administration and finance*. Oxford: Pergamon.
- Huizinga, J. (1951). *Verzamelde werken. Deel VIII: universiteit, wetenschap en kunst*. Haarlem: Tjeenk Willink.
- Knight, M. (2002). Governance in higher education corporations: A consideration of the constitution created by the 1992 act. *Higher Education Quarterly*, 56(3), 276-286.
- Musselin, C., & Mignot-Gerard, S. (2002). The recent evolution of French universities. In A. Amaral, G. Jones & B. Karseth (Eds.), *Governing higher education: National perspectives on institutional governance* (pp. 63-85). Dordrecht: Kluwer.
- Neave, G. (1998). The evaluative state reconsidered. *European Journal of Education*, 33(3), 265-284.
- Neave, G., & Van Vught, F. A. (Eds.). (1991). *Prometheus bound. The changing relationship between government and higher education in Western Europe*. Oxford: Pergamon.
- Reed, M. I. (2002). New managerialism, professional power and organisational governance in UK universities: A review and assessment. In A. Amaral, G. A. Jones & B. Karseth (Eds.), *Governing higher education: National perspectives on institutional governance* (pp. 163-185). Dordrecht: Kluwer.
- Shattock, M. (1999). Governance and management in universities: the way we live now. *Journal of Education Policy*, 14(3), 271-282.