Conference Note

Governance: Improving effectiveness for a new age

The Leadership Foundation's first national governance conference took place on Thursday 30 November 2017, and was held in the City of London. Participants to the conference heard from a variety of leading national speakers who examined university governance from a number of different perspectives.

This note records the highlights from the speakers and the discussions from Governance: Improving effectiveness for a new age.

Backdrop

The consultation on the implementation of the Higher Education and Research Act (HERA) and work of the Office of Students (OfS) provided a changing context to examining the governance of English Higher Education Institutions (HEIs). Although on a number of previous occasions the sector had managed significant change, the establishment of the OfS as the sector's regulator indicated that the quantum of change was different to what had gone before.

The Office for Students

The changes being implemented by the OfS were discussed, and the attention of conference drawn to the differences between the role and responsibilities of the Higher Education Council for England (Hefce) and the new regulator. While Hefce was responsible for the 'whole system of higher education', the focus of the OfS was on protecting the needs of the students, and to some extent the taxpayer.

Changes embodied in the emerging system suggested that governing bodies should pay attention to:

- The use of data and the importance of outcomes. However, while OfS would focus on outcomes this did not mean that governing bodies could ignore the processes, behind the outcomes.

- The emerging relationship with the new regulator. This was expected to be very different to the relationship that institutions had enjoyed with Hefce.

- The documents accompanying the consultation laid stress on the governing body's responsibilities, rather than as currently the institution.

- The relationship between 'academic' and 'corporate' governance. OfS were expecting institutions to have a clear protocol on the assurance of academic governance.

- Value-for-money (VfM): the meaning of the term was unclear. Did it relate to how institutions spend the tuition fees they received? Was it about the value to the individual – in which case there was the related question of finding some way of recognizing and valuing both the economic and non-economic benefits of higher education. The framework included in David Willetts' new book provided a useful starting point on this matter. See D Willetts (2017), A University Education, Oxford University Press, p.123.

- The public interest principle – this included the test that members of a governing body are 'fit and proper' people to hold office. More generally it was important that the principle was not used in future years to deliver policy objectives.

The changing context raised the question of what should the future membership of the governing body look like? What skills would be required on the governing body? Did the education knowledge base need to be enhanced?

A response to higher tuition fees

The changing regulatory environment could be viewed as the inevitable consequence of the introduction of higher tuition fees.

The Teaching Excellence Framework (TEF) had sharpen the focus on teaching, and helped to provide students with additional information about institutions. The planned developments to the TEF would make it a more elaborate information tool.

Concerns were expressed that the regulation of other sections did not appear to have been successful. A key question was who regulates the regulators? Was this in effect the politicians? This invited the question of how could the OfS ensure its own independence from government?

Reflecting the emerging context, three imperatives for governing bodies were:

- Keeping pace with the rapid change of events
- Deciding what they should be monitoring
- Avoiding 'capture' by senior teams

Key considerations were:

- What was the mix of skills required on the governing body
- Achieving a diversity of membership
- Acknowledging the global competition for the best and most talent academics
- Sustainability
- Ensuring transparency

The time line for the introduction of the new operating environment

The period to develop, consult and subsequently introduce the changes required to implement the new regulatory framework were very short. There was a real risk that given the short timescale poor decisions might be made, and this could lead to turbulence across the sector.

Participants felt that institutions would value the development of checklist identifying the actions that governing body should give attention to in respect of the introduction of the new regulatory framework.

Pensions

A workshop on pensions drew attention to the variety of schemes operating in the higher education sector. The trend to moving from paying pensions based on defined benefits, to career average revalued earnings (CARE) or defined contribution was discussed. Attention was also drawn to the generally poor recognition by employees of value of the pension benefits they accrued. Despite the fact that many governing bodies had recognized that schemes were increasingly unaffordable, there remain significant challenges to successfully reforming the current schemes so they were more affordable to the employer and employee.

What can higher education governance learn from other sectors

An invited panel offered their views on what higher education might learn from other sectors.

Three key principles

The common principles of good governance were:

1. Clarify as to:

- The role of executive and non-executive members of a Board.
- What are powers of the governing body: when is it the should the governing body initiate a topic for discussion, as opposed to when their role is to scrutinise and challenge proposals placed before it?
- Nature of the process: collective decision-making should be an inclusive process.

2. Transparency in relation to:

- Processes
- The decision
- Decision-making

3. Accountability:

- In whose interest
- Being able to understand the perspective of different interests
- Able to explain decisions

Ten success factors

A second perspective suggested that there were ten factors which supported good governance:

1. Getting the right people on boards and committees
2. Recruiting governors through an open and transparent process
3. Keeping up with business issues
4. Spending time with people outside meetings in their natural habitat
5. Clarity of purpose
6. Combating asymmetrical data flows, by designing a valuable dashboard of relevant information
7. Use of third party validation and the triangulation of data
8. Presentations on key risk areas
9. Meeting dynamics
10. Rigorous appraisal of Board effectiveness and individuals

In addition, Boards had a key role in establishing values, and monitoring how these are embedded in the organisation.

Playing attention to behaviours and values

A further perspective emphasised the behavioral aspects of a Board and related processes. A healthy culture protects and sustains the organisation. Boards needed to mindful that they had a responsibility for stewardship: the long-term sustainability of the organisation.

Some specific areas for attention, included:

1. Succession planning
2. Engagement: how does the Board really know what is going on
3. Understanding the reasons for corporate failure
   • Lack of know-how
   • Belief in the organisation's own rhetoric
   • Hubris of chief executive
4. What signals are being sent to the organisation

Plenary discussion

In discussion, members of the panel suggested that the current system of governance was not fit for purpose. Higher education institutions were no-longer a self-governing community of scholars. As a consequence, there was an opportunity to look more radically at the question of governance and make reforms.

In understanding the organisation's culture it was always insightful to look at the vice-chancellor's office and the arrangements for car parking. These gave important clues as to the culture of the organisation.

Engaging with the student body was important to gain a better sense of what was going on in the organisation. For example, student forums, chaired by students, and held outside of the formal meetings of the governing body were a useful way of gain direct feedback from students.

Independent governors should have the opportunity to meet together, without staff and student governors being present. If this happened on a regular basis, say, twice a year it was more likely to be accepted as 'normal' part of the workings of the governing body. Equally, there was merit in the vice chancellor meeting with the independent members without other members of the senior team being present.

The regular appraisal and review of the performance of governors was essential. This might involve regular 1-to-1 conversations with individual governors. However, it was important that the policy of appraisal was be clear from the outset, and formalized.

There was merit in considering whether one governor should be appointed as the senior independent member. Such an appointment could act as an early warning system of emerging issues.