

O Caso Inglês

Presidente da Mesa – Manuel José dos Santos Silva

CONFERÊNCIA – Gareth Williams

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Cumpre-me fazer uma breve apresentação do Prof. Gareth Williams, que nos vai falar sobre as formas de governo no ensino superior, e, mais especificamente, sobre o caso inglês.

O Prof. Gareth Williams é professor emérito no Instituto de Educação da Universidade de Londres. É um grande especialista, que tem dedicado uma larga parte da sua vida à investigação no domínio da educação, designadamente na área das políticas de administração do ensino superior.

Tem várias publicações, incluindo alguns livros extremamente interessantes. Apenas um exemplo recente: o livro *The Enterprising University*, editado, em 2002, pela Open University Press.

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Governance and Management of English Universities and Colleges

Gareth Williams*

Governance is a means for realising institutional goals and, in an ideal world, should enable the institution to respond to the demands of the political environment by regulating its internal affairs accordingly.

Brian Salter and Ted Tapper, “The External Pressures on the Internal Governance of Universities”, *Higher Education Quarterly*, 56 (3), July 2002

Legal Responsibilities

British universities have always been legally independent corporations.

The 1988 Education Reform Act and the 1992 Higher and Further Education Acts extended this autonomy to all higher education institutions. The legal status and broad mission of each university and college is determined by a Royal Charter (similar to that which established the BBC) or a specific Parliamentary Statute, which for most practical purposes has the same effect. A Royal Charter is an ancient legal instrument that gives their holders some protection from Parliamentary interference. However, there are some important differences between those institutions that were designated as universities before the 1992 Act and those that became universities or achieved their institutional autonomy as a result of that Act.

The Charter requires each university to have a governing body, called a Council in the case of the pre-1992 universities, and this body is ultimately responsible for all that goes on within the university both academically and financially. In almost all cases the majority of members of

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the governing body are external, so-called ‘lay members’, that is they do not work for the university. Oxford and Cambridge are interesting exceptions. They are still governed by the academic staff of the university. In many other pre-1992 universities the proportion is one-third academic (elected by Senate) and two-thirds lay (non-academic). In contrast in the post-1992 universities there are often no members of the academic staff of the university, apart from the vice-chancellor who are members of the governing body.

Another area where there are differences is the role of the Senate, or academic board, as it is called in some institutions. The charters of pre-1992 universities legally define Senate as the supreme academic governing body of the institution. This means that the Council has no jurisdiction over purely academic matters. However, in many cases academic decisions have financial or staffing decisions and this then becomes a matter in which the council has a legitimate interest. In practice, therefore, the Council and the Senate work closely together and the significant academic membership of Council helps bring this about. In the post-1992 universities the authority of the academic staff is significantly downgraded. Not only are there no, or very few, academic members of Council but the statute which incorporated these institutions explicitly gives the governing body responsibility for academic as well as financial and legal matters.

Thus the responsibilities of the Council are similar to the Directors of a commercial company. However, there are important differences. The directors of a company are entrusted by the shareholders to secure a satisfactory return on their investments in the company. Company directors are formally accountable to the shareholders of the company – they are appointed by the shareholders and their decisions can be overturned by the shareholders. Members of university governing bodies have no such specific accountability. There are no shareholders to satisfy and although in recent years the term ‘stakeholders’ has often been used to refer to those groups who have an interest in the performance of a university – students, employers of its graduates, local communities, staff, the government and there are specific responsibilities to some of them – make statistical and

other returns to various government agencies, teach and examine students, many of the responsibilities to ‘stakeholders’ are not legally or administratively defined. For example it is in a university’s interest to produce graduates whom employers consider to employable but there is no requirement for the university to do so. The Council itself appoints its members and decisions of Councils cannot be overturned unless the law has been broken¹. The other significant difference is that university council members are not paid for their work on the governing body. A university Council or governing body is, therefore, potentially extremely powerful but its members have no direct financial interest in the outcome of their decisions².

It is helpful to view university councils in the United Kingdom as the node of the three forces identified by Burton Clark (1983) in his well-known triangle of coordination – academic, state and market. The governing body is extremely powerful in determining where the university will go and what it will do. But it is subject to many and, it is widely claimed, increasing pressures from government. It must take account of the need to generate income from a wide variety of sources. As in any professional organisation, it is also essential to have the confidence of the staff of the institution.

The State

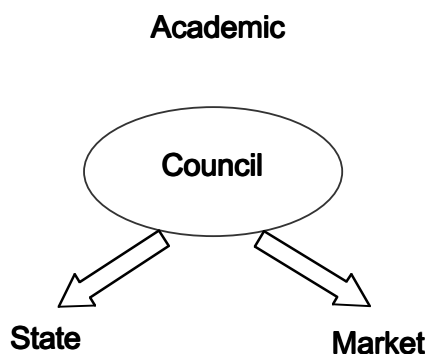
The introduction of quasi-market forms of public finance and the growth of quasi-commercial income generating activities during the past two decades has changed the character and increased the work of university

¹ For internal disputes involving students or staff in the pre-1992 there is in fact a final authority to deal with disputes before the law is invoked. This is the ‘Visitor’ often a member of the Royal family, though usually a judge or senior barrister who acts on the visitor’s behalf on the very rare occasions where the authority of the visitor is invoked.

² However, there is one similarity with the directors of a company. If a university loses money, or if it goes bankrupt and it can be shown that this is a result of malpractice or gross negligence by some or all of the members of the governing body they could be held personally responsible for the loss. This has not so far been tested in the courts.

councils growing considerably. Michael Shattock, who has written extensively on the subject, has described the change as a shift from a consensual model towards a corporate model of university governance. The consensual model is based on ‘academic dominance of the governing process’ while the corporate model ‘is best defined as one where the

Forces to which governing bodies must respond



institution’s governing body represents the dominant locus of power and decision-making on a *de facto* as well as *de jure* basis’³.

The 1988 Education Reform Act specifically introduced a form of management of the higher education system that has been described by Neave, van Vught and others as government ‘steering from a distance’. It also strongly encouraged universities to seek income from sources other than direct government subsidy. These two forces have been dominant features of UK higher education during the past decade.

Whereas 20 years ago about 80 per cent of university income came in the form of direct grants from central government the corresponding figure now is of the order of 50 per cent. And much more direct accountability is

³ Michael Shattock, ‘Re-balancing Modern Concepts of University Governance’ in *Higher Education Quarterly*, 56(3), July 2002.

required for this 50 per cent. However, the term ‘steering at distance’ has a different connotation in the UK, at least in the pre-1992 universities, from that in most other European countries. In most European countries it denotes a shift from direct control of universities by government towards a system in which universities are able to take more of their own decisions subject to incentive based monitoring by the government. Government steering started to be done ‘from a distance’. In the United Kingdom the emphasis is on the word ‘steering’. Before the 1988 Act of Parliament universities had all the autonomy they now possess and received most of their income from government, but apart from legal requirements to have their accounts audited to prevent fraud they were subject to very few pressures as to how they spent their incomes. Before 1988 the government saw itself as subsidising universities, and other higher education institutions, after 1988 it considered that it was buying specific services from them and the money universities received was conditional upon the delivery of these services. Several universities, for example have been penalised for failing to recruit their target student numbers on some courses. Thus the government began to steer the universities through the money it made available to them. He who paid the piper began to call the tune.

The introduction of ‘steering from a distance’ has thus meant considerable convergence between higher education in the UK and in many other European countries but starting from opposite points of the compass.

Almost the sole instrument the central government has on the actions of universities is its provision of finance. There is a very strong convention, formalised in the 1988 Act, that the government itself does not fund individual universities directly. It operates via the quasi-autonomous Higher Education Funding Councils (for England, Scotland and Wales). But the conditions it sets for providing funds via the funding councils have become increasingly onerous.

The introduction of the financial memorandum, which defined the fiduciary relationship between each university and its Funding Council, explicitly placed responsibilities on governing

bodies for compliance with the requirements for ensuring that an institution had a sound system of internal financial management and control, for delivering value for money from public funds, for ensuring solvency, for approving financial and strategic plans ... as a condition for receiving public funding (Shattock, op. cit., p. 238)

The key drivers of government finance of universities from the 1990s onwards have been student numbers and the quality of research and teaching. Universities are set target numbers of students each year and are paid a 'price' for each student recruited up to this target.⁴ The quality of the education provided for these students is monitored by the Quality Assurance Agency. Unless the quality of any course is deemed to reach a certain standard the funds provided for that course may be withheld. In practice this sanction has not been used because the very small number of courses that are not deemed to have reached the required standard have been withdrawn by the university. In addition university departments whose courses are deemed by the QAA to reach a very high standard are given higher target student numbers, and hence higher potential income, by the funding councils.

Each university is paid a basic income for its research on the basis of its quantity and quality as determined by a 4 year 'research assessment exercise' in which their research during the previous four years, and potential for the future, are peer reviewed.

Since the mid-1990s higher education institutions have also been eligible to receive 'third stream funding' which is broadly intended to provided a basis for work that serves business and the community other than through academic teaching and research – short training courses, consultancy etc. All universities and colleges are eligible to receive such funds but they must be bid for and are allocated on a competitive basis

⁴ There are 4 price bands medicine, laboratory subjects, part laboratory subjects, and other subjects.

depending on the amount of effort the university appears willing to put into this range of activities.

The principles underlying the funding of teaching and research and third stream activities are easy to state. The details of the formulae and procedures involved are, however, extremely complex. Determining the appropriate strategy to maximise the institution's income and safeguard it in the future are a major responsibility of any governing body. Long term academic reputation, day-to-day cash flow, career development of staff, student learning and student welfare, the state of the buildings and equipment and relations with the local, national and global communities must all be balanced. One of the major decisions confronting many universities at present is the balance of effort between research and teaching and business-community relations. The need for a clear strategy has intensified since the publication of the White Paper on the Future of Higher Education in February 2003. This announced that the government intends to concentrate its research funding into fewer universities and to increase the amount of third stream funding. Only the Council or governing body can take such basic decisions on the nature of a university. But the decision must depend on a clear appraisal of the environment in which the institution is located and the opinions and capabilities of its academic and other staff.

The Market

At the same time universities have greatly increased their portfolio of activities that generate income from non-government sources. Initially in the 1980s this was largely a purely financial expedient to try to recoup some of the income that was being lost through tightening government stringency. Universities began to:

- rent out their residences and teaching rooms for conferences and meetings and holidays at times when they were not being used;
- make sports facilities available to local communities – at a price;

- encourage academic staff to undertake consultancy work on behalf of the university;
- make stronger efforts to recoup the value of the intellectual property created as a result of university research;
- recruit many more fee paying students outside the government planning targets.

These explicit marketing activities raised further problems of governance. How far is it appropriate for a university to go in generating income from any particular source? Should income generation take precedence over other aspects of a university's mission? One issue that is generating considerable debate at the moment is franchising of courses in other countries. This can be financially very profitable for a university but if the quality of the franchised courses does not reach satisfactory standards this may affect international perceptions of UK higher education as a whole. Another issue is tax status. Legally, universities and colleges are charitable institutions. This gives them a variety of tax privileges. However, if their income generating activities put them into direct competition with private sector companies this results in unfair competition and can lead to very large tax demands.

Closely related to this issue is the growth of electronic communication, which provides another means of disseminating teaching and research materials. Any university is anxious not to be left behind in the race to benefit from the global communications revolution. But it is an expensive game. How, and how much a university should be involved is another major strategic decision. Some have already experienced considerable financial losses from ill-considered ventures.

Many British universities are now very large commercial enterprises and need, at least in part to be run as such. Business acumen is now at least as important as academic expertise for their governance.

The academic dimension

Nevertheless universities and colleges remain primarily academic enterprises. Their core business is still some combination of degree level teaching and seeking knowledge through research and scholarship. These remain what Burton Clark has described as ‘the academic heartlands’⁵. Their success as higher education institutions and their survival depend almost entirely on the students they teach and the staff whom they recruit and whose careers they develop. In the pre-1992 universities the formal position of both these groups is as *members* of the university, not clients or employees. It is, therefore essential to take the interests of both groups at the forefront of any strategic decisions, whatever the other environmental pressures to which the university governing body is subjected. Students of all British higher education institutions are in a practical sense the main clients or customers and it is essential that they are satisfied with the services they receive if a significant part of the university income is to remain secure.

However, it is the academic staff of the university who are key to the success of a university and this is even more the case in the marketised entrepreneurial climate that exists today. Like any professional organisation the success of any university depends on the skills, hard work and enterprise of its staff. As Shattock points out:

Although we have a much more market orientated system of higher education, the market remains primarily dominated by the academic community. Although on average 40 per cent of university income now comes from non-Funding Council sources, we have not moved back to the position where institutions depend on members of their governing bodies to generate financial support The additional resources necessary to supplement recurrent grants are generated from

⁵ In *Creating Entrepreneurial Universities: Organizational Pathways of Transformation*, Burton R. Clark, Pergamon Press, 1998.

student fees, research contracts, short courses and other aspects of academic entrepreneurialism. There is little to suggest that governing bodies can offer much to influence performance in these areas other than encouragement (and occasionally discouragement). Shattock, op. cit., p. 240.

Quite apart from the regular routine teaching and research which are the staple of the working life of any lecturer or professor, almost all new ventures and almost all entrepreneurial activities are the results of initiatives by members of the academic and administrative staff. The management and governance of any successful university needs to encourage, stimulate and reward all the activities that add to the good name of the university and improve its financial position. Sometimes, indeed it is important for the governing body to restrain excessive enthusiasm or risk taking but the general climate in the successful universities of the 1990s has been one in which members of staff feel rewarded for success more than punished for failure.

In fact of course many of the responsibilities of the governing body are undertaken by a small strategic management group⁶ close to the vice-chancellor, consisting of senior administrators and members of the academic staff. Rarely does this group have any formal executive powers of its own, but its nature is such that the executive head of the Institution, the vice-chancellor and the members of the governing body can very rarely take decisions against the advice of this strategic management committee.

In turn the members of the strategic management group are either members of or attend meetings of the academic board or senate and thus keep their fingers securely on the academic pulse of the university. In a well-managed university there is an effective two-way flow of information from the academic staff, to the strategic management committee, to the chief

⁶ There is no standard name for this group: it goes under a variety of names such as Planning And Resources Committee, Development Committee, Central Management Group, Directorate, Strategic Planning Group and very many others.

executive (the vice-chancellor) and to the governing body or council. The return flow of information by which decisions of the council are communicated and explained all the way down the chain are of equal importance.

The role of the vice-chancellor is pivotal. He, or in a growing number of cases she, is the only academic representative who is always a member of the governing body and he nearly always chairs the senate or academic board. In formal terms he is usually the 'accounting officer' of a university which means that he is personally responsible for ensuring that the public funds the institution receives are spent in accordance with the law and the conditions on which it was provided.

More than in any other major aspect of universities as organisations the role of the vice-chancellor has come to resemble that of the chief executive of a medium sized company. Many recent vice-chancellorial appointments in major universities have come from the world of business, many of their remuneration packages are compatible with those of chief executives of similar sized companies and their day to day work is concerned with strategy: planning; investment; promotion; marketing; and public relations inside and outside the institution: functions similar to those of chief executives in a wide range of commercial enterprises in a global knowledge economy.

Conclusions

The governance of universities that I have highlighted in this paper is concerned particularly with some the issues that arise in a university system where the autonomy of the institutions is central to the system as a whole. The reasons for this autonomy are ultimately historical, cultural and political. It is the way that a national system of higher education developed in the nineteenth and early twentieth century in a country in which laissez-faire capitalism was dominant and there was widespread distrust of central regulation of values and knowledge. The central government did not

start to play a dominant role in the funding of universities till after the Second World War in the middle of the twentieth century. At that time the experiences of several continental European countries in the 1930s and 1940s reinforced the view that increased government funding of universities should not be accompanied by increased government control over them. Thus the thirty years from 1945 to about 1975 were in many ways a golden era for British universities. They received generous and increasing funds from government and they had to make very few formal commitments in return. It was sufficient that the universities produced the people who staffed senior positions in government and the civil service, the liberal professions, the media and, increasingly the senior managers in industry and services. Effective governance of these institutions could be left to the academic senates, whose members constituted many of the intellectually most able people in the country. Until 1980 the issue of institutional or system governance other than through academic control was not a salient issue.

There was a growing recognition that the system was not particularly fair in its admissions arrangements for students and not particularly concerned with applying its knowledge to direct wealth creating activities and from the late 1960s onwards there were attempts to deal with these lacunae through the establishment of a public sector of higher education under more direct control of public authorities. It is significant, however, that the fear of central control extended to this sector as well and the public authorities which controlled the polytechnics and other colleges were the local education authorities which at that time were sources of independent political power.

However, these arrangements were advantageous in many ways when mass higher education and the global growth of belief in markets as efficient ways of allocating resources and promoting economic advance led to the growth of the concept of steering from a distance by government. But whereas in many other countries this involved loosening rigid state control mechanisms in the United Kingdom it has involved attempts by government to strengthen the non-academic control of universities and colleges so as to reduce their ability to serve what the government has seen as academic

self-interest or selfishness. A.H Halsey a distinguished sociologist of higher education has described this as ‘the decline of donnish dominion’ in the title of an important book on the subject.

This presentation has attempted to draw attention to some of the issues that have arisen when university governing bodies really do have to respond to competing pressures from the members of their own institution, from the state and from the market. The debate continues and it would certainly be wrong to claim that the United Kingdom has found the right balance between academic and non-academic rights and responsibilities or the best size or composition of the membership of autonomous university or college governing bodies⁷.

⁷ This paper relies heavily on a special issue of the *Higher Education Quarterly*, Volume 56, No 3, July 2002. Many of the issues are discussed in greater depth in that journal.

