

25. The factors that influence whether governance is effective

Introduction and aim

What factors influence whether governance is effective? Higher education (HE) governance is not only about the work of the governing body; the governing body is also part of a system of governance, which contains several different components. For governance to be effective, all these elements need to be aligned and operating well. Similarly, to discharge their responsibilities, governors need to understand the provider's system of governance and where they sit within the system.

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1. Beyond compliance

Good governance is not only about the provider meeting its legal and regulatory requirements and those of the relevant HE code of governance. While compliance is important, the ability of governors to probe strategy and policies, and exercise sound judgement when making decisions is critical.

2. Oversight and accountability

Governors need to be capable of supporting and challenging proposals presented to them by the executive. Once a decision has been agreed, the role of governors is to scrutinise implementation. Good governance involves the exercise of oversight and accountability, and a reluctance to accept poor performance. Management, by contrast, is about planning, organising and day-to-day operations.

3. The system of governance

Exercising oversight, accountability and compliance does not just occur with the governing body. Responsibilities are also distributed to other structures and individuals within a HE provider. These include the executive, the senate/academic board and school/faculty/departamental boards. Collectively, these elements, together with the governing body, form the system of governance typically found in a HE provider.

4. Aligning the different elements

Each element of the system of governance provides a locus of authority within the system¹. Good governance requires each component to discharge their responsibilities efficiently and effectively and to work in harmony towards commonly agreed objectives. The boundaries between the different elements of the system may change over time.



5. The role of the executive

The executive team comprises the head of the institution and its most senior postholders. The executive is tasked with proposing strategies and policies to the governing body for their decision and approval and subsequently overseeing their implementation. Both roles are crucial to the governance of the provider. The executive team must propose strategies and policies to the governing body for its approval, but also oversee their implementation and coordination. Not only must the executive send information to, and seek approval for decisions from, the governing body, it must oversee and manage the internal dynamics of the provider.

6. Executive leadership

Executive leadership is a major determinant of the success of a provider: 'the most important factor in ensuring long-term corporate success, whether for banks and other financial institutions or a non-financial business, is a highly effective executive team'². The absence of an effective executive team, is likely to lead to difficulties: 'even a good, well-skilled board cannot make up for ineffective chief executives and senior teams'³.

7. Appointing the executive team

The governing body plays a critical role in appointing the executive team: 'the most important task of any board is to put in place the right executive leadership for the business'⁴. If inappropriate appointments are made, at a future date the governing body may need to consider whether it should act to remove a member of the executive team.

8. Academic governance

While the governing body is responsible for 'taking all final decisions on matters of fundamental concern within its remit', the senate/academic board is normally responsible for overseeing the provider's academic governance. Reporting to the senate/academic board, school/faculty/department boards are responsible for academic governance at a 'local' level.

9. Academic assurance

A recent requirement is for the senate/academic board to provide an explicit assurance to the governing body that the provider's academic governance is effective⁵. Governing bodies should consider what information they require from the senate/academic board to be assured as to the effectiveness of the provider's academic governance. Gaining assurance allows the governing body, if required, to confirm to a regulator or sector funding body that they have confidence in the provider's academic governance.

10. The role of the governing body

As the senate/academic board, supported by school/faculty/department boards, leads on academic governance, governing bodies have historically concentrated on matters of corporate governance. These include agreeing the provider's strategic plan; setting the annual budget; appointing senior postholders; and ensuring the provider complies with the legal and regulatory requirements placed on it. However, for governance to be effective, academic and corporate governance must be aligned.

11. The independence of governors

The composition of a governing body has an important bearing on effectiveness. Independent governors occupy the majority of places on a governing body. For a governor to be independent they cannot be employed by the provider, and should not have close ties with the organisation or its senior management. Personal or business relationships can affect independence and any such connections should be carefully examined when deciding whether to invite an individual to join a governing body. All personal or business relationships should be declared by a potential new member to the clerk/secretary.

12. Competence and skills

A fundamental principle is that governors should be selected on merit, exercise intelligence and good judgement and make decisions in the best interests of the provider. They should also have a strong commitment to the provider and its purpose. In addition to their general calibre and interest in the sector, individuals are normally selected based on knowledge or expertise in a specific field that they bring to the skills of the governing body.



13. Balancing sector and business knowledge

An effective governing body needs to exercise oversight across all key areas of the provider's work. In appointing new governors, governing bodies need to be mindful that although an educational entity, the provider must also operate as a sustainable business. These twin needs suggest a deep understanding of the sector ('domain' knowledge), as well as business or 'technical' skills should be present on the governing body.

14. Other factors to consider

As well as the overall balance of knowledge and skills, there are other factors that are likely to be considered when determining the membership of the governing body. Specific skills, such as auditing, finance and human resources, are typically required to staff the governing body's committees. Consideration may also be given to appointment individuals who have a professional background in specific curriculum areas, or are who are locally resident and bring connections to local businesses or the community. All of these factors potentially play a role in determining the actual membership of the governing body. Recruiting the right mix of people is critical, as no amount of governor training is likely to compensate for a lack of appropriate skills and expertise⁶. Achieving a governing body, capable of dealing with all the areas within its remit, demands considerable care.

15. Refreshing the membership

The sector's operating environment is dynamic, and so the skills needed by the governing body evolve over time. A long-serving governor reaching the end of their final term of membership provides the opportunity to consider whether their successor should have a similar or different set of skills. Succession planning, including the membership of the governing body's committees, is an important aspect of the work of the Nominations Committee.

16. Governors must give sufficient time

Governors need to be able to commit sufficient time to the role. This includes preparing for and attending, meetings of the governing body and any committees of which they are a member. Prior to their appointment as a governor, the expected time required to fulfil the role should be clearly explained. New governors should confirm they are able and willing to meet the time required of them, to mitigate the risk of poor attendance.

17. Selecting new members

The Nominations Committee is responsible for considering applications from prospective independent governors and making recommendations to the full governing body as to their appointment⁷. Prospective governors may be sought using one or more of the following methods: external advertising, posting vacancies [on board vacancy portal](#), use of search consultants or approaching known individuals. Regardless of the method used, care should be exercised to ensure individuals are independent, committed to the provider's ethos and values, have the required knowledge, skills and expertise and be prepared to treat the role as a high personal priority.

18. Diversity of membership

Governors should not be selected from a narrow sub-set of the population – eg same social, ethnic, age or gender group – with similar values and beliefs, as this could create a risk of groupthink. ie a tendency to think in similar ways. Evidence from corporate failures in the private sector suggests that this can lead to management not being sufficiently challenged about their decisions. For this reason, as well as others, diversity should be part of the selection process for new governors.

19. What is the role of governors?

Governors are expected to both scrutinise, challenge and support the executive. Achieving the right balance between challenge and support is not easy. Excessive challenge can lead to management feeling they have to persistently defend their position; while a lack of challenge may lead to complacency. Governors need to find the right point along the spectrum of unquestioning support and excessive challenge⁸. It is important that this is understood by both governors and management.

20. Individual contributions

A variety of backgrounds and individual personalities will mean governors are likely to make different contributions to the work of the governing body. Governors with business or professional skills are likely to offer comments on matters such as, say, external borrowings or legal matters. Those with knowledge of the sector may contribute more strongly to discussions about the academic direction and performance of the provider. However, notwithstanding their specialist field, all governors should be capable of reviewing any aspect of the provider's work and reaching an informed judgement.



21. The culture of the boardroom

The culture of the boardroom is critical if there is to be a genuine open two-way conversation between management and governors. In a culture where openness and debate are the norm, challenge is more likely to be accepted as part of the dynamics of the governing body (ie. part of accepted conversations). However, the manner in which a challenge is presented is still important. If, for example, a governor's intervention is constructive, offering suggestions as to how a decision might be improved it more likely to well received by management. Alternatively, if a governor simply offers a dissenting view, this is more likely to be perceived by management as unhelpful. One characteristic of an effective board member is 'the ability to ask really good questions in a constructive manner⁹.'

22. The governing body as a social organisation

Governing bodies are social organisations. New governors closely observe the operation of the governing body and how established governors behave. This enables the cultural values of the governing body to be transmitted to new members. In time, new governors become an established member of the 'group' and inevitably develop closer relations with management and their peers. The social dynamics of a governing board can make it more difficult for governors to retain their independence and continue to offer appropriate challenge to management. In this regard, it has been suggested that 'true independence is a state of mind¹⁰.' Governors should regularly remind themselves of the need to retain their independence and objectivity.

23. The chair

The chair of the governing body plays an important role in ensuring governance is effective. The chair is responsible for leading the governing body and chairing its meetings. The chair has a major role in influencing whether the meetings of the governing body are conducted in an atmosphere that encourages openness and debate. The chair also provides a role model for the other governors. The time required to fulfil the duties is often significant, and the post-holder needs to make the role a high priority.

24. Agendas and papers

Chairs work with the head of institution and clerk/secretary to ensure there are a sufficient number of meetings of the governing body; governors receive adequate and timely information to inform their decisions; and there is sufficient time to discuss key items. Papers provided to governors should not be overly long, include and highlight key information and avoid offering an over-optimistic assessment of the provider's position or strengths. If the chair or governors believe the governing body is not receiving sufficient information to make a well-informed decision, they should be clear about what additional information they require from management. Similarly, governing body agendas should provide sufficient time to discuss key matters. Putting important items at the end of the agenda risks limiting discussion.

25. The chair and the head of institution

The relationship between the chair and head of the institution is at the core of the provider's leadership and governance. The governing body appoints both post-holders but the roles are distinct: one is responsible for leading on governance and the other on management. A good working relationship between the two individuals is critical. There is more likely to be an effective relationship where there is mutual understanding and respect, and the differences in the roles and responsibilities are understood by both parties. There should be regular communication between the two individuals. As a general rule, both parties should avoid presenting 'surprises' to the other. The chair should not be uncritically close to the head of the provider or be drawn into its day-to-day management. The chair may, however, need to raise issues of concern or sensitivity. If the relationship is characterised by persistent tension or disagreement, one or both individuals may ultimately need to step aside¹¹.

26. Appraisals

The chair will normally conduct the annual appraisal of the head of the institution, making recommendations to the Remuneration Committee as appropriate. The chair should also consider periodically meeting with each governor to discuss how their contribution to work of the governing body might be enhanced, or if specific additional training might be beneficial. On occasion, the chair may need to raise specific issues with individual governors, for example, if there is a poor record of attendance at meetings or to discuss the possible renewal of a governor's term.



27. Appointment of the chair

Normally, a chair will serve for several years. Appointment processes vary, but the selection process and detailed role description should be agreed by the governing body. In many instances, the governing body will also appoint a vice/deputy-chair, to deputise for the chair in their absence. Anticipating when the existing chair may relinquish their position is vital to enable the appointment of a replacement chair to be managed in an efficient and timely manner. To facilitate a smooth transition, ideally, the appointment of a chair-designate should be made in good time to allow for a period of overlap between the out-going and in-coming chair.

28. Clerk/secretary

The clerk/secretary is appointed by the governing body and occupies a critical position, influencing its operation and effectiveness. Although they may be an employee of the provider, as clerk/secretary their allegiance is to the governing body. As well as ensuring the necessary paperwork (eg. agendas, papers) are issued in a timely and efficient way, they may be required to offer discrete advice to the chair or head of the provider. The independence of the clerk/secretary may also encourage governors in confidence to share matters of concern. If a clerk/secretary believes a proposed course of action by the chair or head of the provider is inappropriate, they must be capable of saying so. In addition to having the 'technical' knowledge and skills to fulfil the role, the clerk/secretary must have the courage and personal standing to be able to 'stand-up' to the chair or head of the provider, if required.

29. Effectiveness reviews

Governing bodies are expected to periodically review their effectiveness. Reviews are increasingly conducted with the help of an independent external facilitator. Once a review is complete, the governing body should review the recommendations and agree on what action should be taken.

30. Concluding remarks

Good governance requires all components of the system of governance (governing body, executive, senate/academic board, school/faculty/department board) to fulfil their responsibilities and to work together in pursuit of common goals. As a key part of the system, the governing body is a significant factor, but not the only factor, in determining whether governance is effective.

31. Questions to review

- Q Does the governing body have an appropriate balance of skills and expertise?
- Q Is there a succession plan for the membership of the governing body and its committees?
- Q Are governors clear as to their role, and the need to balance support and challenge?
- Q Is the chair effective in discharging their responsibilities?
- Q Does the culture of the governing body meetings encourage openness and debate?
- Q Does the governing body receive the information it needs to make key decisions?
- Q When did the governing body last undertake an effectiveness review?

End notes and further reading

- ¹ Bowen W G and Tobin E M (2015), *Locus of authority: the evolution of faculty roles in the governance of HE*. Princeton University Press, p.ix.
- ² Walker D (2009), [*A review of the corporate governance of banks and other financial institutions: final recommendations*](#). p.35.
- ³ Kelly C (2014), [*Failing in management and governance: report on the independent review into the event leading to the Co-operative Bank's capital shortfall*](#). p.121.
- ⁴ Kelly (2014), *Ibid.*, p.123.
- ⁵ This requirement does not apply across all four nations of the UK.
- ⁶ Kelly (2014), *Op. Cit.*, p.116, para. 13.16.
- ⁷ Typically, there are a number of categories of membership that are not determined by the Nominations Committee. These normally include, for example, members elected/appointed by Senate and representatives of the student body.
- ⁸ For discussion of this aspect of governance, see Walker (2009), *Op. Cit.*, pp.52-55.
- ⁹ Hall J quoted in Plimmer G, 'Tips from three leading headhunters', *Financial Times* 24 November 2016.
- ¹⁰ Gramm J (2015), *Dear Chairman: boardroom battles and the rise of shareholder activism*, Harper Collins, p.141.
- ¹¹ Walker (2009), *Op. Cit.*, p.57.

