

The concept of good governance and the King IV principle 1 of ethical and effective leadership as absolutes for effective and efficient South African higher education setting

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Abstract

Essentially, to fulfil their core mandate of teaching and learning, research and community engagement higher education institutions (HEIs) are highly dependent on an environment that is supportive to their effective and efficient functioning. Accordingly, this environment relies entirely on good governance, ethical and effective leadership roles and responsibilities. The two roles and responsibilities are critical in ensuring effective functioning, stability and success of HEIs. During 2012 there were about four South African HEIs that, in accordance with Section 41A of the Higher Education Act, 1997 (Act 101 of 1997, as amended) (RSA 1997:37) and section 38 of the Higher Education and Training Laws Amendment Act (Act 23 of 2012) (RSA 2012:8), were placed under administration, and this was as a result of challenges that they experienced which were related to poor governance and ineffective and unethical leadership. The reports of the independent assessors that were appointed to the four HEIs put under administration revealed how activities and behaviours, of especially those who had fiducial responsibility, compromised key elements embedded in good governance and effective and ethical leadership roles and responsibilities easily led to the HEIs being ineffective and unstable. The main aim of this article is to briefly interrogate the experiences of the four HEIs and highlight how good governance practices and the King IV Principle 1 of ethical and effective leadership roles and responsibilities are absolutes to effective, stable and successful South African Higher Education (SAHE) setting. In addition, as this article wish to demonstrate these roles and responsibilities are critical in ensuring that the post-1994 SAHEIs as public institutions are governed and led in a transparent and accountable manner.

Keywords: higher education, management, governance, leadership, roles, effective functioning.

1. Introduction

As outlined in the Higher Education Act (Act No. 101 of 1997) the term South African Higher Education Institutions (SAHEIs) refers to “any institution that provides education on a full-time, part-time basis and which is – (a) merged, established as a public HEI under this Act; (b) declared as a public education institution under this Act; or (c) registered or provisionally registered as a private education institution under this Act” (RSA 1997:6-7). All four HEIs that are subject of this article fit within this description. Globally, higher education institutions (HEIs) have as their “primary responsibility, the production, dissemination and preservation of knowledge, discharged through the activities of teaching, research, continuing education and public service” (Middlehurst and Elton 1992:253), and this, without a doubt,

predominantly requires a conducive environment with relevant systems and structures, which is supported by good governance and ethical and effective leadership roles.

In line with Section 45 of the Higher Education Act, 1997 (Act No. 101 of 1997, as amended) (RSA 1997:37) should at any stage be reported or evidence be provided that a particular higher education institution (HEI) is experiencing some problems which consequentially impact negatively on its effective functioning, in the public's interest, the Minister of Higher Education and Training is obliged to intervene, and an independent assessor may be appointed. In this regard, the latter's responsibility would be to thoroughly assess the situation and establish whether it is necessary to take any further action to remedy the situation. In extreme circumstances, one of the measures may be the appointment of an administrator to take over the authority of the council and/or the management of the institution (RSA 1997:36).

Around 2012 there were about four South African HEIs that, in accordance with Section 41A of the Higher Education Act, 1997 (Act No. 101 of 1997, as amended) (RSA 1997:36), were placed under administration, and this was mainly due to issues related to their functioning. As outlined in the Higher Education Act, 1997 (Act No 101 of 1997, as amended) the term administration describes a situation whereby an independent assessor may declare a HEI as ineffective, and in respond the Minister of Higher Education and Training, in line with Section 41A of the Act, may appoint a person as an administrator, with a clear mandate of taking over the authority of council or management of a HEI, and as such perform the functions related to management or governance of a said HEI (RSA 1997: 36). It was under these circumstances that the four HEIs had to forfeit their authority. On closer investigation the challenges identified were found to be mainly about poor governance and unethical and ineffective leadership roles. In this regard, Fourie (2009: 353) explains that, in the higher education setting, "governance cannot be studied or discussed in isolation from related functions of management and leadership." This statement highlights the significance of the two roles and their responsibilities in creating an environment conducive to the delivery of HE core mandate, namely, teaching and learning, research and community engagement.

In addition, the Education White Paper 3 asserts that "an effective system or institution functions in such a way that it leads to desired outcomes or achieves desired objectives" (RSA DoE 1997:8). Similarly, in their work titled, *Management Challenges for Tomorrow's Leaders*, Goodman, Fandt, Michlitsch and Lewis (2007:5) maintain in business management effectiveness describes "the degree to which goals are achieved; [and this in the main involves] doing the right things," and without a doubt this principle also applies to most organisations in their various settings.

Related to the roles and responsibilities that are the focus of this article, challenges that were uncovered by the independent assessors within the four HEIs in question were human resources management, procurement processes and procedures, financial management, and information and communications technology. Consequently, these challenges made it impossible for the HEIs to demonstrate efficiency,

effectiveness, competitiveness and responsiveness to the socio-economic needs of society (Maassen and Cloete 2002:22), as expected by the relevant Ministry and the society at large. Post the 2018/19 Department of Higher Education and Training Budget Vote, while reflecting on the future of the sector, the Minister Naledi Pandor (in Mail and Guardian 25 to 31 May 2018:6), is reported to have observed that “the shortcomings of some of the previously disadvantaged universities are because of poor leadership, which needs to be strengthened if the institutions are to thrive.” This observation is made more than five years after two of the universities that she was referring to in the interview have been through administration because of poor and unethical leadership and practices.

In this article, the challenges that faced the four HEIs, as they relate to governance and leadership roles and responsibilities, are identified and highlighted for the purposes of demonstrating how they impacted on the effective functioning and stability of the HEIs. The article briefly interrogates the experience of the following four selected HEIs that around 2012 were under administration: University of Technology 1 (UoT 1), University 1 (U1), University 2 (U2) and University of Technology 2 (UoT 2) (*to protect their identity, the actual names of institutions are not used*). The main aim of this article is to highlight how good governance practices and the King IV Principle 1 of ethical and effective leadership roles and responsibilities are absolutes to effective, stable and successful South African Higher Education (SAHE) setting. In addition, this article wishes to demonstrate that these roles and responsibilities are critical in ensuring that the post-1994 SAHEIs as public institutions are governed and led in a transparent and accountable manner.

2. The significance of key elements embedded in the concept of good governance and the King IV Principle 1 of ethical and effective leadership

A brief reflection on structures and authority within higher education setting as they relate to governance and leadership is a necessary exercise in that it provides a better understating of the conceptualization of the key elements embedded in good governance and the King IV Principle 1 of ethical and effective leadership, and the responsibilities of different role players within a governing body. The following is an exposition of those elements:

2.1 Key elements embedded in good governance within the HE setting

Du Plessis, Hargovan and Bagaric (2011:10) describe governance as “the system of regulating and overseeing corporate conduct and balancing the interest of all internal stakeholders and other parties (external stakeholders, governments and local communities) who can be affected by the corporate’s conduct, in order to ensure responsible behaviour by corporations and to achieve the maximum level of efficiency and profitability for a corporation.” The term can also be used to refer “to structures and processes through which institutional participants interact and influence each other and communicate with the larger environment” (Birnbaum in Middlehurst and Elton 1992:252). As it relates to the South

African HE setting, in the Education White Paper 3 “governance arrangements reflect values about the distribution and exercise of authority, responsibility and accountability” (RSA DoE 1997:35).

More precisely, Sections 27, 28, 29, 31 and 35 of the Higher Education Act, 1997 (Act No. 101 of 1997, as amended) (RSA 1997:27-32) governance is regarded as a mechanism of ensuring and entrenching compliance which can be achieved through the accommodation of multiple conflicting constituencies represented in various governing structures, such as Council, Senate, Institutional Forum and Student Representative Council (RSA 1997:27). In support Gayle, Tewarie and White (2003:24) point out that “the foundation for effective governance processes rests on a clear understanding of the relationship between the assigned governance roles of faculty leaders, senior administrators, and trustees regardless of whether these relationships are clear or blurred.”

Furthermore, Kulati (2000: 179) observes that “the White Paper on higher education provides for a governance framework based on the principle of co-operative governance. Co-operative governance departs from the premise that no single stakeholder, be it management, academic staff or students can take sole responsibility for [for among other things] determining an institution’s transformation agenda.” Related to this observation, King IV (2016: 20) explains governance as an “exercise of ethical and effective leadership by the governing body towards the achievement of the following governance outcomes: (i) ethical culture, (ii) good performance, (iii) effective control, and (iv) legitimacy.”

From the above, it is clear that HE institutional governance is mainly about overseeing the direction of the HEI as prescribed by legislation and establishing controlling systems that are critical in ensuring that there is proper accountability and delivery on the public mandate, namely, to provide higher education that among other things is responsive to the needs of society and the country’s socio-economic development. Significantly, based on three key elements, namely, partnership, co-operation, and effective balancing of interests of various stakeholders (RSA DoE 1997:30-31), public HEI’s institutional governance also involves the creation of structures and processes that have as their primary objective to enable those who have fiduciary responsibility to perform their duties responsibly, ethically, effectively and efficiently. In congruence, King IV (2016: 40) identifies the following as the primary role and responsibilities of governance structure (i) steering and setting strategic direction, (ii) approving policy and planning, (iii) overseeing and monitoring performance, and (iv) ensuring accountability.

2.2 Key elements embedded in the King IV Principle 1 of ethical and effective leadership and its implications for good governance

From the preceding explanations it is apparent that the global changes that are related to the higher education setting demands of higher education institutions to establish set in place systems and governance structures that can effectively and efficiently support their functioning, success and stability. In this relation, the “King IV Report on Corporate Governance for South Africa, 2016” is an attempt to respond to these changes and the related demands. Consequentially, the code provides a paradigm shift in how organisations can be governed and led. The following are the concepts or characteristics that

form the foundation stone of King IV, namely, *ethical leadership, the organization in society, corporate citizenship, sustainable development, stakeholder inclusivity, integrated thinking and integrated reporting* (2016: 4) [emphasize mine]. Significantly King IV “is more easily applicable to all organisations: public and private, large and small, for-profit and not-for-profit (2016: 6),” and this obviously includes higher education institutions.

As demonstrated by the impact of challenges that were faced by the four HEIs that are subject of this article it is obvious that ethical and effective leadership is one of the absolutes essential in ensuring good governance. Related to this assertion, the following are the characteristics and recommended practices that are embedded in the King IV Principle 1 of ethical and effective leadership, with acronym **ICRAFT**, (2016: 43-44) as they relate to good governance: acronym

- i. **Integrity:** This recommended practice is about ensuring that members of the governing body act in good faith and in the best interest of the organization, and as they fulfil their duties are able to avoid unwarranted conflicts.
- ii. **Competence:** To ensure effectiveness members of the governing body are expected to have sufficient knowledge of the industry, the triple context (namely, economy, society and environment) in which it operates, and be willing to augment their competence.
- iii. **Responsibility:** Essentially, as part of their expected practice, members of the governing body must be prepared to assume collective responsibility for steering and setting the direction of the organization. The ability to detect risks and capture opportunities is one of the capabilities members of the governing body are expected to possess and demonstrate.
- iv. **Accountability:** Willingness to account for the execution of their governance role and responsibilities must be one of the practices that members of the governing body are prepared to adopt.
- v. **Fairness:** In the process of the execution of their governance role and responsibilities members of the governing body are expected to embrace a stakeholder-inclusive approach, meaning they are totally to avoid having biases when dealing with the business of the organization.
- vi. **Transparency:** In all their actions and behaviours, as they relate to their governance role and responsibilities, members of the governing body must be transparent.

These elements, which are also recommended practices, are key to governing as outlined by King IV and they provide a framework for ensuring that those with the responsibility of governing are able to clearly provide ethical and effective leadership role to a governing body of an organisation or higher

education institution in governance structures such as Council, Senate, Institutional Forum (IF) and the Student Representative Council (SRC).

2.3 The key elements that are embedded in good governance and the King IV Principle 1 of ethical and effective leadership

The preceding exposition of key elements that are embedded in good governance, and the King IV Principle of ethical and effective leadership (with its recommended practices) are intended to demonstrate how these roles are absolutes that are essential in ensuring effective functioning of SAHEIs and the ability to efficiently deliver on their core mandate, namely, teaching and learning, research and community engagement (Middlehurst 1999). The following is a **Table** that highlights the key elements that are embedded in good governance and the King IV Principle of ethical and effective leadership:

ROLES	KEY ELEMENTS
Governance	Regulating and overseeing, balancing, structures and processes, distribution and exercise of authority, transparency, responsibility and accountability
King IV Principle 1 of ethical and effective leadership	integrity, competence, responsibility, accountability, fairness, and transparency

The Table provides an understanding on how good governance and the King IV Principle of ethical and effective leadership with their core elements, describe roles that are about structures, processes, systems, policies and procedures, and practices and behaviours. Essentially, these roles are critical in ensuring that a public HEI is able to deliver on its mandate without any unwarranted systemic challenges and has all that is required to realize its strategic objectives. What's more, the roles have a symbiotic and synergistic relationship, and powers and responsibilities that cannot be delegated.

3. Examples of challenges related to poor governance and unethical and ineffective leadership which were experienced by the four HEIs around 2012

In 2012 four SAHEIs, which in accordance with Section 41A of the Higher Education Act (Act 101 of 1997, as amended), were placed under administration, due to issues which were impacting negatively on their effective functioning in fulfilling their core mission. From investigations that were conducted by independent assessors, it was revealed that there were some challenges related to governance and leadership, which impacted negatively on the effective functioning of these HEIs. In effect, governance and leadership roles were found not to be 'compatible and complementary' to one another" (McLaughlin 2004:12).

Based on the reports of the independent assessors the challenges that were experienced by these HEIs included a lack of adherence to the principles embedded in activities related to good governance and

ethical and effective leadership roles within respective HEIs. These challenges are interrogated, and common issues amongst them are identified and highlighted later in this article.

As one of the subtle contributing factors, the four universities varying socio-political contexts and what became their evolving organisational cultures, (Niemann 2010:1002), also affected their functioning. Subsequently, it influenced what constitutes the core elements, powers and responsibilities that are embedded in governance and leadership roles within the post-1994 HE setting.

As revealed in the reports of UoT 1 and U2, one contributing factors that mainly contributed to the situation of instability and ineffective functioning of these HEIs, was found to be the unresolved issues related to the processes of the post-1994 HE is restructuring. Though this process was initiated with good intentions, like any other process that has to do with change, it had both its benefits and shortcomings (Mapesela and Hay 2006) that had to do with the evolvement of a democratic society. One of the benefits was the creation of a HE system that was in line with the country's post-1994 transformation agenda.

The following is a list of issues which were related to governance and leadership roles, which were found common amongst the affected universities and were confirmed by the reports of the four independent assessors respectively:

i. Human Resources Management

All the four reports of independent assessors of the selected HEIs revealed how issues that were related to Human Resources Management (HRM) were found to be one of the challenges that impacted negatively to the effective functioning and delivering of effective teaching and learning. Naturally, at operational level, HRM is the responsibility of the management of the HEI and in this regard, the role of the governance body is to provide strategic leadership and ensure stability and success. Testimonies of the experiences are evident in the following examples:

At UoT 1 the human resources function was found to be dysfunctional because it was one of the highly neglected areas by the management of the institution. This was somehow allowed to prevail even though this component was expected to deal with unresolved processes of a merger, which had to do with policies and procedures, and labour relations mechanisms that had not been aligned accordingly (DHET 2010:7). As a result, it was concluded that “[T]he structures which were created to serve the interest of employees and students and to assist governance and management to create an operational environment have become dysfunctional” (DHET 2010:7).

The same, like the one described above, also prevailed at the U1 and this resulted in inefficiency in as far as expected HRM practices are concerned (DHET 2011:20). In the case of U2 the organisational challenges of a merged institution consisting of three campuses (a university and two former technikons), made it impossible to harmonise management systems and this included the human

resources function and roles (DHET 2011:8). Again, this was despite the fact that, in line with good practices, human resources functions are supposed to be organised in such a manner that they enable an organisation to achieve its mission and strategic objectives. As indicated earlier in this article the role of the governing body in this regard is to provide the necessary support and ensure that there are good order and a conducive working environment for staff and students learning.

ii. Procurement Processes and Procedures

One of the root causes of the problems that were experienced by UoT 1, which were initially uncovered by a Commission, which preceded the appointment of the independent assessor, was the procurement policy that had loopholes. Testimonies of this was found to be mostly related to the process of making decisions on the awarding of tenders (DHET 2010:7 and 32). In another case, as reported by the independent assessor, at U1 there was strong evidence of allegations that the normal procurement and tender procedures were disregarded by some of the Council members and the university officials, who colluded in defrauding the institution and this, unfortunately, was accompanied by serious financial irregularities (DHET 2011:20). Here it is apparent that the responsible governing body failed to ensure that all is above the board and that ethical values such as transparency and accountability are upheld.

As a merged institution and due to its fragmented administrative systems and practices that under normal circumstances are the responsibility of management, U2 experienced difficulties in establishing effective control measures on its supply chain management (DHET 2011:8). In this case the independent assessor's report confirmed that, due to lack of governance leadership the management of the university could not effectively mitigate "... manipulation of procurement processes and non-compliance with procedure" (DHET 2012:8 and 27), and obviously this became a risk for the institution. In essence, the governing body failed to ensure that there is an effective implementation of adequate control systems to mitigate the associated risks.

iii. Financial Management

As McKinney (2004:1) explains "financial management plays an indispensable role in the achievement of an organisation's objective," and as such it is regarded as a critical function in the management and governance processes of an organisation. The significance of this function is also amplified by the fact that, following the deficiencies that were uncovered by the independent assessor, in the financial management of UoT 1, the Council was strongly advised to take drastic steps and take full responsibility of accounting for the financial resources and institutional assets of the university (DHET 2011:15-16). In the case of U1, due to the alleged acts of corruption which were rife, a number of allegations of financial irregularities were also reported. In this regard, the independent assessor's team recommended that a full forensic investigation is conducted (DHET 2011:31-44).

In as far as U2 is concerned the independent assessor's report revealed that, in addition to other factors the bad financial situation the institution found itself in was due to the "... weak financial systems and controls" (DHET 2011:9-10) that existed. The impression is that for some time these issues remained a high risk for the institution and there were no attempts made to mitigate it. In the same way that UoT 1

was affected, UoT 2 leadership was found unable to “deal with the allegations of corruption and mismanagement of funds, manipulation of procurement processes and non-compliance with procedure” (DHET 2012:8).

iv. Information and Communications Technology

Amongst the four universities, only two of them, U1 and U2, were reported to have had some serious challenges regarding operations of their information and communications technology systems (ITS), as a function that is also essential in ensuring the smooth running of an organisation. In the case of U1, it was uncovered that the system was unable to mitigate sensitive risks and obvious irregularities such as those related to the “monitoring and control of admissions and registrations” of students (DHET 2011:15). In this regard, the governing body was supposed to have oversight responsibility, meaning the Council of the neglected its responsibility of ensuring that policies and resources critical for effective ITS are in place.

4. Conclusion

The article has attempted to unpack and locate the concepts of good governance and ethical and effective leadership as absolutes essential in ensuring effective functioning, stability and success of universities within the post-1994 SAHE setting. In addition. Essentially, the distinction and correlation between the two roles and their value to the effective functioning of the HEIs have been highlighted and embraced. To achieve its objective of highlighting the significance of governance and ethical and effective leadership roles within a higher education setting the article used some examples from the cases of the four HEIs that experienced challenges related to poor governance and unethical and ineffective leadership.

From the explanations that are presented in this article it is obvious that the provisions of the SAHE legislative framework that specifically addresses issues related to good governance and the King IV Principle of ethical and effective leadership, including the key elements that are embedded in them, the two roles essential in ensuring stability and success of the SAHEIs.

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