

Part 5 Code of Practice on Governance

Many of the issues raised in Part 4, although by no means all, are relevant to the construction of a code of practice. In a number of countries a code of practice has proved useful, not only in codifying existing practice, but in providing a point of reference for the proper conduct of university affairs and as a clear statement of the irreducible duties and responsibilities of the governing body. It is often seen as an essential adjunct of good governance and, where one exists, it can prove a useful reassurance for external stakeholders that good governance is being taken seriously in the institution.

The question therefore arises as to whether a code of practice should be compulsory or should be voluntary. While a case could be made in theory for a compulsory code, there are considerable difficulties. In a highly diverse higher educational environment, such as that which exists in Hong Kong, it would be difficult to develop a compulsory code of practice which takes account of such diversity without it being very general, even vague, in its scope. A compulsory code would also relieve individual university councils of their duty to be responsible for it. Codes of practice need to be somewhat flexible to take account of the particular institutional character of a university, its culture and traditions and its values and mission. Whilst some overall principles need to be adhered to, it is by no means clear that in this case one size will immediately fit all.

A voluntary code, on the other hand can be flexed to suit the individual circumstances of universities. It provides nevertheless an important point of reference, and, most importantly, a source of moral authority over university affairs. Its effectiveness can be reviewed from time to time and, if necessary, changes made to take account of emerging circumstances. Therefore most university sectors where codes of practice exist, have established them on a voluntary basis. Until there is clear evidence to the contrary this is probably the best basis on which to proceed.

Why is a code of practice necessary? Its primary purpose is, as the UK code stipulates, “to identify the key values and practices on which [effective governance] is based, in order to help deliver institutional mission and success”. (CUC, 2004, p.4) The adoption of the code is not, of course, a sufficient guarantee of good governance, but by adopting a code a university council can demonstrate leadership and stewardship while providing some reassurance to external stakeholders.

Codes of practice typically comprise two key areas:

- 1) A statement of the core values concerning how institutional governance is conducted;
- 2) The identification of the primary responsibilities of the governing body that support these core values.

Some codes of practice then give more detailed consideration to each of these primary elements, although frequently these are contained in appendices or even separate briefing documents. In all those countries which have adopted a code, the intention of the code has been developmental rather than solely regulatory. Institutions have been encouraged to adopt the code, adapt it where this can be justified to accommodate local circumstances and thereby, in a very real sense, own it. This means that the code can become a living, breathing document which may change over time. Good governance therefore becomes a journey of continuous improvement with the document itself being reviewed and evaluated from time to time in response to local, national or even international factors.

So the question arises: what should be the character of such a code in Hong Kong? There are only eight UGC-funded institutions and this might be taken to imply that a level of uniformity could be achieved that is higher than in either, say, the UK or Australia. However, this would overlook the diversity which exists among the institutions in Hong Kong – and the policy objective (on which there is a high level of agreement) that such diversity should be supported and encouraged. This suggests an approach which is closer to the Australian example: a clear statement of essential components, but an absence of suffocating detail. Moreover, by having to work through the detail of implementation in their own institutions this also promotes a greater awareness of, and engagement with, the issues involved. In other words, this approach is more aligned to the developmental purpose of the code, rather than a purely regulatory function. Hong Kong universities are mature enough and, in general, sufficiently well-managed, to make this approach appropriate.