

### Applied Governance

by Natasha Danson  
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While there is a lot of talk about governance principles and governance reform, there are precious few resources on how governance principles should be applied to a specific regulator. Last spring two experienced regulatory experts, Harry Cayton from the UK and Deanna Williams from Ontario, conducted a review of the governance approach taken at the Ontario College of Social Workers and Social Service Workers. The report includes the application of some recurring governance challenges to the current practices of that particular regulator.

#### Definition of “Governance”

For a word that is used frequently these days, there is no established definition of “governance”. The report offers the following definition of “good governance”:

In this report we consider that good governance is the effective, efficient, transparent and accountable delivery of an organization’s objectives thus creating confidence and trust in its members, clients and the public. Good governance is as much about behaviours and their outcomes as structures.

This definition has the advantage of identifying the goals of good governance. However, those with little prior experience with governance discussions may find that definition theoretical.

A more descriptive definition of “governance” that we have used is:

Governance is an organization’s choice as to how it will perform its functions including:

- Setting its missions, goals and strategies
- Selecting its Board, committee and staff members
- Ensuring compliance with fiduciary duties and
- Assigning and enforcing roles within the organization.

That definition, however, does not distinguish between good and bad governance choices.

#### Election of Professional Board Members

Not surprisingly in light of broader discussions in the regulatory space, the report questions the election of registrants to the Board. However, specific observations were made in addition to the usual arguments about ensuring that Board members have demonstrated the necessary competencies and skills. The report notes that the electoral system is also a major barrier to turnover of registrant Directors. Eleven of the 14 registrant Directors were in a second or later term of office and had served 101 years amongst them.

The report further argued that the election method of selection actually prevents diversity:

Elected boards are only representative of those who are willing to stand and those who vote for them. They are often likely to be drawn from a narrow socio-economic group and from older members of a profession.

Perhaps even more blunt is the following comment:

Arguing that elections create diversity, while allowing individuals to be re-elected multiple times, is merely one way of maintaining the influence of those already in position.

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The report says that the selection process should emphasize obtaining credible candidates rather than candidates that represent the profession.

The report also thought it remarkable that “not one of the current public appointees identified themselves as service users.”

### **Executive Committee**

While noting that the use of an Executive Committee was required by the legislation, the report questions its utility. The report suggested that the role of the Executive Committee, beyond making urgent decisions between Board meetings, was unclear; according to the report, the Executive Committee tended to duplicate the work of other committees and of the Board. The report recommended limiting the Executive Committee’s role to addressing Board matters if they could not wait until the next Board meeting.

### **Governance Policies and Procedures**

Many regulators are criticized for having inadequate policies and procedures. However, in this case, the report observed that this College had more than 270 pages of governance policies contained in 31 separate documents. Board members indicated that they were unfamiliar with them and that they had to rely on staff to identify them.

The report recommended that a unified policy would “provide a framework within which decisions can be made in line with its statutory responsibilities and in the interests of clients and the public.”

The report de-emphasized the significance of rules of order used by Boards, suggesting that a team approach to the conduct of Board meetings was more critical.

### **Risk Management**

The report commended the corporate risk management approach of the College, including the existence of a risk register, and commended that risk management was a significant part of the work of a number of the regulator’s committees.

However, the report observed that risk of harm to the public, including clients of registrants, was not as prominent. A number of the recommendations and suggestions related to incorporating risk-based regulation as a major focus of the organization, including the Board.

### **Roles**

There are many descriptions of the roles of various entities within an organization, particularly that of the Board and staff. Perhaps one of the oldest metaphors is that the Board steers and staff row. The report has a helpful description: the Board provides strategy and oversight; staff offer delivery and management. The report indicates that this distinction is also essential for the Board Chair and CEO relationship to succeed. The report suggests that the title “Chair” was more descriptive of the office’s role than that of “President”.

The report was not supportive of anonymized feedback surveys. Rather, Board members:

should review their own practice annually in an identifiable and accountable survey and should discuss the results together and be prepared individually to be responsible for what they have said and for what improvements should be made. Anonymity is not transparency.

The report emphasized the need for the Chair to focus on facilitating Board meetings and providing

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leadership to the Board. The Chair should not make decisions on their own.

In terms of the CEO, the report challenged the view of some Board members that the CEO was there to “do their bidding”. The report indicated that Board members should respect the CEO’s ability to decline to respond to inappropriate requests for information.

## **Code of Conduct**

The report only briefly touched on the fiduciary duties of Board members. It commented that, while rules were necessary, personal values and behaviour are more important. Board members, particularly the Chair, need to “politely challenge colleagues who behave inappropriately”. The report described an incident of disrespect demonstrated during an observed Board meeting that ought to have been addressed immediately.

The report concluded with:

Our final recommendation is the simplest of all: treat each other with respect and courtesy and put common sense and the benefit of service users and the public at the centre of your decision-making.

The report can be found at:

<https://www.ocswssw.org/wp-content/uploads/OCSWSSW-governance-report.pdf>.