ACCESS: CONTEMPORARY ISSUES IN EDUCATION
1994, VOL. 13, NO. 1, 1–6

Chapter 1

Corporatisation and the New Zealand university system

Michael C. Peters, John Freeman-Moir and Michael A. Peters

ABSTRACT
This chapter provides a brief, descriptive account of the introduction of corporate-type reforms to the university system by comparing the State-Owned Enterprises Act 1986 (SOE) with recent legislation pertaining to universities. The corporate reforms discussed fall into four categories: competition; user charges; a private sector industrial relations framework; and a new system of accountability.

Information leaked to the press in 1991 revealed that the National Government was considering a plan to 'corporatise' and possibly privatise New Zealand universities. While this plan was greeted with shock by student and academics, it came as no surprise given the strong commitment held by the present National and previous Labour Governments to policies which support privatisation or commercialisation of the state sector. The process of commercialisation began with the landslide victory of the Labour Party in 1984. Roger Douglas, then Minister of Finance, proposed the following framework which was to guide the wholesale restructuring of Government departments into State-owned corporations or enterprises under the State-Owned Enterprises Act 1986 and to provide much of the groundwork for their eventual sale to the private sector.

1. Managers would be required to run departments as successful business enterprises;
2. Managers would be responsible for decisions involving pricing and resource use and would answer to Cabinet and Parliament;
3. 'State-owned enterprises' would operate in an environment of contestability or competitive neutrality;
4. A distinction would be made between commercial and non-commercial functions of State-owned enterprises;
5. State departments would be restructured under the direction of boards whose membership would be drawn from the private sector.

(*Economic Statement,* 1985:12).

The Reports of the Tertiary Review Group (1991), commissioned by the National Government, confirmed that corporatisation and a number of alternatives for restructuring the universities were on the agenda. When the Reports became public, however, it became evident that the Tertiary Review Group stopped short of advocating full corporatisation. In part this was because of the local

and international reaction it would arouse. Legislative changes over the last four years, however, have narrowed the differences between· State-owned enterprises and tertiary institutions.

This chapter provides a brief, descriptive account of the introduction of corporate-type reforms to the university system by comparing the State-Owned Enterprises Act 1986 (SOE) with recent legislation pertaining to universities. The corporate reforms discussed fall into four categories: competition; user charges; a private sector industrial relations framework; and a new system of accountability. Chapters two to five provide more detail on each of these issues and pose questions about the efficacy of the reforms. Finally, chapter six looks at alternative models of universities in the future.

Reform of the core public sector

The enactment of the State-Owned Enterprises Act (SOE) in 1986 resulted in nine new State-owned companies (SOEs): Airwayscorp, Coalcorp, Electricorp, Forestrycorp, Landcorp, NZ Post, PostBank, Telecom, and Government Property Services. The purpose of the Act was to restructure the environment and management practice of the Government enterprises such that SOEs emulated or mirrored business practice in the private sector. Under the State-Owned Enterprises Act, for example, State corporations are regulated by company law and have as their principle objective the requirement to 'operate as a successful business and, to this end, to be - (a) As profitable and efficient as comparable businesses that are not owned by the Crown .. ' In order to help SOEs become more profitable and efficient, the Labour Government implemented overall funding reductions and, where possible, increased or introduced charges for the users of Government services (Gregory, 1989: 118).

As well as encouraging user charges, the State-Owned Enterprises Act was designed to place Government enterprises into a 'competitively neutral' environment. Competitive neutrality or contestability refers to a situation where Government enterprises experience neither competitive advantage nor disadvantage in relation to privately-owned businesses. To this end, SOEs are made to pay dividends and tax (like any company in the private sector) to their 'shareholders', the Government. Part of creating a more 'level playing field' also involved the withdrawal of State subsidised loans to corporatized departments. Instead, funding for additional spending _ must now come from private sector sources (Whitcombe, 1989:158). Commercial and 'noncommercial' (or public) services were also clearly distinguished, with the latter covered by Government subsidies.

The State-Owned Enterprises Act also changed the relationship between Ministers and the Government departments. Ministers became 'shareholders' in the SOEs and can transfer to SOEs liabilities and assets (such as land). In essence, this was part of a 'hands off approach characterised by decentralisation or a decoupling of departments from direct Ministerial control (Martin 1990: 125). Managers, for example, were given free reign over the pricing and marketing of their own goods and services (Whitcombe, 1989:159). The assumption underlying this decision is that political interference reduced the quality and accountability of managerial decision-making (Deane, 1989:121).

The freedom to manage, however, was limited by the requirement that SOEs provide a 'statement of corporate intent' or corporate plan to the Government. Under Part lll of the State-Owned Enterprises Act, the board of directors is obliged to submit to the shareholding Minister a document which includes clearly-defined performance targets or indicators. The corporate plan is then compared to the SOE's annual report (also submitted to the shareholder Minister) in order to assess the extent to which targets have been met. It should be added that the Minister reserves the right to direct the board to include or omit provisions in the corporate plan (s. 13, SOE) and can compel boards to relinquish information relating to the affairs of the SOE (s. 18, SOE).

In summary, the State-Owned Enterprises Act was an attempt to make Government departments emulate businesses in the private sector. Principally, this involved enhancing

competition and profitmaking, increased charges for those using Government Services, and the introduction of corporate planning. Despite the emphasis on copying corporate behaviour, industrial relations practices were, at that time, not placed on the same footing as the private sector; the State Services Conditions of Employment Act 1977 still applied following the introduction of the State-Owned Enterprises Act.

This feature of the State-Owned Enterprises Act, however, was repealed with the introduction of the State Sector Act 1988. Described as a 'frontal assault on the position of the Public Service,' (Martin, 1990: 126) this Act, like the State-Owned Enterprises Act, was designed to place SO Es and non-corporatised Government departments on a more even par with the private sector; principally by rewriting the conditions of employment for public sector employees. As Deane (1989:128-129) notes:

> The major changes in the new Act relate to appointment procedures for heads of Government department ... , a shift in industrial relations arrangements towards those of the private sector, provision for negotiation of awards and agreements in a manner generally similar to that prevailing in the private sector ... , a reduced role for the Higher Salaries Commission and a revised role for the State Services Commission.

Before the introduction of the State Sector Act (SSA), heads of Government departments held permanent tenure and were paid at rates set by the Higher Salaries Commission. Now chief executives are appointed for a limited term of 'no more than five years' and remuneration is determined by negotiation with the State Service Commission (SSC) in consultation with the Prime Minister and the Minister of State Services (s. 38, SSA). The independence of the chief executives from direct day-to-day State control was reaffirmed under the State Sector Act by the provision that chief executives become employing authorities. Previously the SSC was the employing authority. Chief executives under the new regime have the power to hire, promote and fire employees within the constraints of employment contracts and the guideline that they be 'good employers'.

The corporate model applied to tertiary education

Under the Labour Government, the introduction of corporate type reforms into tertiary education was preceded by the *Report of the Working Group on Post Compulsory Education and Training* (1988), known as the *Hawke Report* and *Leaming for Life I & 11* (1 989). Predictably, these documents identified inefficiency and a lack of accountability, among other. things, as shortcomings in tertiary education. On the basis of this, it was argued that a number of corporate-type reforms - increased competition, user charges, corporate planning and a private sector industrial relations framework - could remedy the situation. These corporate principles, if not always the exact recommendations, were embodied in the State Sector Amendment Act (No.2) 1989 and the Education Amendment Act 1990.

Tertiary institutions were brought under the State Sector Act in December 1989 with the passing of the State Sector Amendment Act (No.2). This Amendment, however, did not apply the principles of the original Act to the letter. For example, while councils must seek 'written concurrence' from the SSC regarding conditions of employment of the chief executive (Vice-Chancellor), they take sole responsibility for the appointment of the chief executive (s. 77 lB. and 771D, SSA). Furthermore, after much protest, tertiary institutions were removed from coverage by sections of the State Sector Act 1988 which gave the SSC the power to impose a code of conduct and enter premises to demand information. But, consistent with the original State Sector Act, chief executives were placed on a fixed term contract of no more than five years and are formally the 'employers' of their staff. Previously university councils were the employers.

In accordance with the original Act and Government intentions, the setting of pay scales for employees was placed under the Labour Relations Act 1987 (since repealed and replaced by the Employment Contracts Act 1991). Previously, conditions for academic staff were set by the Higher

Salaries Commission. Chief executives in tertiary institutions, it should be noted, play a stronger role in the negotiations of pay and conditions for staff in comparison to other areas of the education sector. However, while they are formally the principal negotiators, they must consult with the SSC prior to negotiations. Whatever the case, the new provisions for collective bargaining and the redrawing of the boundaries between employer and employee parties mark a fundamental shift from the idea of a university as a collegiate body to one which contains the clear divisions between management and labour characteristic of the private sector. The State Sector Act, however, represents only a part of the corporate image outlined in *Learning for Life II* (1989).

Although resistance to the principles set out in the Education Amendment Bill (1990) resulted in some modification, the corporate image was reaffirmed and extended with the introduction of the Education Amendment Act (EAA). In line with increasing the power of chief executives (Vice-Chancellors), attempts were made to weaken the influence of university teachers within universities. To do this, the original Education Amendment Bill abolished the legal requirement for universities to have a professorial board. By the time the Bill became law, however, professorial boards (now academic boards) were reinstated along with their usual rights and obligations. Some changes were made in the constitution of university councils. Whereas academic staff were previously guaranteed from two to six places, they are now guaranteed only one place (although councils can have three if they wish). Where Government appointed members previously varied from one to four representatives, there is now a requirement for four on each council (s. 17, EAA).

As promised in *Learning for Life II* (1989), tertiary institutions were deemed 'bodies corporate' (as opposed to crown agencies) under the Education Amendment Act 1990. Subject to guidelines set out by the Act and the Minister of Education, tertiary institutions have the power to contract, borrow, mortgage, sell assets or an interest in assets, issue debentures, and grant floating charges on the property and activities of the institution (s.192, EAA). In addition, the Act makes provisions for the Minister to grants assets or impose liability on institutions (s.206, EAA). Institutions were to take full responsibility for their assets in January 1991 with full legal transfer taking place shortly thereafter. This measure was postponed, however, pending the *Reports of the Tertiary Review Group* (1991).

The requirement for institutions to have a written charter containing goals and purposes is contained in the Education Amendment Act. Charters are established by university councils in consultation with the staff, students and the local community. The charter is then submitted to the Secretary of the Minister of Education. The charter can be rejected by either the Secretary or the Minister of Education, with the latter able to initiate amendments to it (s. 184-191, EEA). The Education Amendment Act also specified the requirement for corporate planning. To this end, the councils of tertiary institutions must submit to the Secretary a statement of objectives, a list of performance indicators and an annual report which allow an assessment of service performance (ss.203 and 220, EAA).

Competition was strengthened in a number of ways. The New Zealand Qualifications Authority (NZQA) was established which can grant privately-owned institutions the right to use the title 'university' and can give institutions, other than existing universities, the power to grant recognised degrees. A number of polytechnics have already successfully applied to have courses recognised for degree status, and one fully private institution has been granted university status. The existing public universities, therefore, have lost their 'monopoly' over degree credentialing. Furthermore, a more direct correlation between funding and equivalent full-time students was established in law. The financial success of a university, therefore, has become an issue of attracting students in the competitive market place for tertiary education. And finally, a commitment was made to establish a contestable pool for research funding *(Learning for Life II,* 1989). This pool has since been established and is known as the 'Public Good Science Fund.'

Increased user charges and a reduction in student living allowances were also introduced in 1990 by the Labour Government. Under the new 'targeted' scheme, students under twenty years of

age received a progressive reduction in their allowances as the level of parental income increased. Tuition fees in 1990 also increased massively, on average, to almost ten percent of course costs. However, some groups, such as sixteen to seventeen-year-olds and those from underprivileged backgrounds, still paid pre-1990 fees. In 1992, under the National Government, allowances for those under 25 years of age became targeted and Government funding for tuition will fall, on average, with the phasing in of the Study Right policy. Since universities have been made responsible for setting their own fees, it is clear that by 1994, the average cost of a course will be well above that set by the previous Government.

It was the National Government, furthermore, which commissioned a review of tertiary education in 1991 to examine the viability of turning universities into fully-fledged SOEs. To do this, profit-making would become the prime objective of these institutions; boards of directors would replace university councils and tertiary institutions would have to buy their assets from the Crown. This model, however, was rejected on the grounds that it would be unwieldy and would create an unfavourable local and international reaction. The status quo with the transfer of assets at no cost (as planned by the Labour Government) was also given some consideration but rejected on grounds that it would not provide sufficient incentives for institutions to become competitive and efficient.

The preferred arrangement, and one which has been accepted by the National Government, involves the requirement that tertiary institutions pay a capital charge on their assets, much in the same way that SOEs must pay dividends to the State. This, it is argued, will sharpen incentives for efficient use of property. Furthermore, it is seen as a way in which a more competitive environment can be created. First, it will decrease the advantage held by 'asset rich' institutions and, second, it will give authorised private institutions a better environment in which to compete for subsidised students *(Review of the Structure of Tertiary Institutions,* 1991: 40). It is proposed that the scheme be introduced from 1 January 1995.

Conclusion

Unlike SOEs, universities have not been forced to assume profit-making as their primary objective and nor have university councils been replaced by boards of directors. Nevertheless, it is evident that the current and preceding Governments have attempted to alter both university practices and the environment within with they operate, such that universities have increasingly been forced to assume a corporate appearance. Like SOEs, universities are accountable to the Government through a system of mission statements and clearly-stated performance objectives; they are being forced to charge for their services; are subject increasingly to competitive pressures; and operate within an industrial relations framework similar to that of the private sector. This process of restructuring, if we are to believe the policy makers, will bring about greater efficiency, quality, and responsiveness to students. These claims are questioned in the chapters which follow.

References

DEANE, R. (1989) 'Reforming the Public Sector'. In S. Walker (ed.), *Rogernomics: Reshaping New Zealand's Economy.* Wellington: GP Books.

DOUGLAS, R. (1985) *Economic Statement,* December. Wellington: GP Books.

GREGORY, R. (1987) 'The Reorganisation of the Public Sector: The Quest for Efficiency'. In J. Boston & M. Holland (eds.), *The Fourth Labour Government: Radical Politics in New Zealand.* Auckland: Oxford University Press .

HAWKE, G., et al, (1988) *Report of the Working Group on Post Compulsory Education and Training.* Wellington: Government Printer.

MARTIN, J. (1990) 'Remaking the State Services'. In M. Holland & J. Boston (eds.) *The Fourth Labour Government,* 2nd ed. Auckland: Oxford University Press.

MINISTRY OF EDUCATION (1989) *Learning for Life I & II.* Wellington: GP Books.

TERTIARY REVIEW GROUP, (1991) *Review of the Structure of Tertiary Education.* Wellington: GP Books.

WHITCOMBE, J. (1989) 'The Changing Face of the New Zealand Public Service'. In H. Gold (ed.) *New Zealand Politics in Perspective,* 2nd ed. Auckland: Longman Paul.