



# UNIVERSITY OF WESTERN CAPE (UWC)

## DELEGATION OF POWERS

DATE OF LAST APPROVAL: C2004/3



UNIVERSITY *of the*  
WESTERN CAPE

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# University of the Western Cape

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## OFFICE OF THE REGISTRAR

14 June 2004

The Chairperson of Council  
UWC

Dear Ms Tyeku

## DELEGATION OF POWERS

Council at its meeting on 19 March 2004 raised certain concerns on the proposed Delegation of Powers. These concerns have been addressed in the attached redraft which served at the meeting of the Executive Committee of Council on 21 May 2004. The Executive Committee of Council recommended the Delegation of Powers to Council for approval.

Yours sincerely

Ingrid Miller

## COUNCIL

### DELEGATION OF POWERS

#### **I INTRODUCTION**

##### **1. Powers of Council**

The powers of Council are thus defined in Section 27(1) of the Higher Education Act, Act I01 of I997 as amended (hereinafter referred to as the "HEA"):

*(1) The council of a public higher education institution must govern the public higher education institution, subject to this Act and the institutional statute.*

The powers of Council are, therefore, of a very wide nature and encompass almost all matters regarding the governance and oversight of the management of the University.

##### **2. Delegation of powers by Council**

The powers referred to in I. above may, in terms of section 68(2) of the HEA, be delegated by Council to a committee of Council, a joint committee of Council and Senate, Senate, the Institutional Forum, the Rector or any employee of the University. Section 68(2) reads as follows:

*(2) The council of a public higher education institution may, on such conditions as it may determine, delegate any of its powers under this Act or delegated to it in terms of subsection (1), except the power to-*

- (a) make an institutional statute;*
- (b) enter into an agreement contemplated in section 40 (2); or*
- (c) perform an action contemplated in section 40 (3),*

*and assign any of its duties in terms of this Act or assigned to it in terms of subsection (I), to the other internal structures, the principal or any other employee of the public higher education institution concerned.*

(Section 40(2) deals with entering into a loan or overdraft agreement and section 40(3) deals with the construction of buildings, purchasing or long-term lease of immovable property.)

Council is, therefore, empowered by the HEA to delegate almost all of its powers to

- (a) Committees of Council;
- (b) Joint committees of Council and Senate;
- (c) Senate;
- (d) The Institutional Forum; or
- (e) Officials of the University.

3. **Council not divested of responsibility**

Section 29(2) of the HEA provides as follows:

*(2) The council and the senate are not divested of responsibility for the performance of any junction delegated or assigned to a committee under this section.*

Despite the fact that Council is empowered by the HEA to delegate its powers, Council still retains the final responsibility for such, delegated, matters.

4. **Final decisions on matters delegated**

Although Council may delegate any matter to a committee or official and empowering such committee or official to take "final decisions" with regard to any matter so delegated, Council still remains, in the final analysis, responsible and accountable for such decisions. It is, therefore, imperative that all "final decisions" on matters delegated by Council be reported to Council for its information, even though such decisions have already been implemented. Council must always be accorded the opportunity to scrutinize and evaluate such decisions in order to decide whether to "retract" the delegation or to issue new instructions or policies to the committee or official concerned.

5. **Responsibilities and Powers of the Management Committee**

Clause 11 of the (new) Statute of the University (hereinafter referred to as "the Statute") provides as follows:

*11.1 Subject to the provisions of paragraphs 7.1 and 8.1 the management committee controls, manages and administers the University from day to day.*

*11.2 The management committee takes decisions subject to policy and other decisions taken by the council and the senate and subject to the statutory provisions governing the University*

*11.3 In the event of urgency, the management committee may take any decision in the interest of the University, provided that the chairpersons of the council and the institutional/arum are immediately informed of such decisions at the earliest opportunity.*

As far as the day-to-day management, control and administration of the University are concerned, the Management Committee is accorded fairly wide-ranging powers. The Committee is, however, accountable to Council and Senate for its decisions.

## **6. Responsibilities and Powers of the Rector**

Section 30 of the HEA provides that:

*The principal of a public higher education institution is responsible for the management and administration of the public higher education institution.*

Clauses 6.1 and 6.4 of the Statute further provides that:

*6.1 The rector is the chief executive officer of the University and is responsible/or the day-to-day management and administration of the University.*

*6.4 The rector, in accordance with the directives and policies of the council and the senate, exercises general supervision over the University.*

The above legislative provisions clearly provide that the Rector has the primary responsibility for the management and administration of the University.

## **II DELEGATION OF POWERS TO COMMITTEES OF COUNCIL**

### **1. Executive Committee of Council**

Council has (formally) decided on 27 June 2003 to delegate certain of its powers to its Executive Committee (see item 6.2.1 of C 200/4). The Executive Committee is, therefore, authorized by Council to take **final decisions** (on behalf of Council) on, *and to take responsibility for*, with respect to specific matters. These matters are the following:

- (a) Approval of shortlists put forward by the Senior Appointments Committee (SACC) with respect to candidates for the position of dean;
- (b) Approval of appointments of deputy deans (after having considered the recommendations of the Board of the Faculty concerned, Senate and the Management Committee);
- (c) Forwarding of SACC reports to Senate and the Institutional Forum, *except* in the appointment of a rector;

- (d) Student and staff discipline;
- (e) Retirements; and
- (f) All Senate matters (e.g. appointments, curricula, etc.), *except* policies and rules pertaining to students and academic staff.

## 2. **Finance Committee of Council**

It is *suggested* that Council formally delegate the following matters, **for final decision**, to its Finance Committee:

- (a) Matters regarding the University's accounting and financial systems and infrastructure as well as the accuracy of the University's accounting data;
- (b) Scrutiny, monitoring and approval of periodic budget reports;
- (c) Scrutiny of the rationale for increases in tuition and residence fees *for reporting to Council*; and
- (d) Scrutiny of periodic reports on outstanding debt due to the University and decisions with regard to action to be taken.

## 3. **Membership Committee**

It is *suggested* that Council formally delegate the following matters, **for final decision**, to its Membership Committee:

- (a) Matters with regard to Council members to serve on standing and *ad hoc* committees of Council *after consultation with the Council members concerned*;
- (b) Matters with regard to Council members to serve on joint committees of Council and Senate *after consultation with the Council members concerned*;
- (c) Matters with regard to Council members to serve on Senate and the Institutional Forum *after consultation with the Council members concerned*;
- (d) Advising the Minister of Education on the appointment of members of Council by the Minister in the event of a vacancy arising on Council in the category of members of Council appointed by the Minister; provided that such advice may only be provided where the Minister has specifically requested such advice;

- (e) Monitoring the attendance of meetings of Council and the committees; and
- (f) Monitoring the workload of members of Council serving on committees.

#### 4. **Senior Appointments Committee**

It is *suggested* that Council formally delegate the following matters, **for final decision**, to its Senior Appointments Committee:

- (a) Decisions regarding the format and wording of advertisements, media in which advertisements are to be placed and deadlines for applications and nominations;
- (b) Format of interviews with candidates; and
- (c) Format of reports to Council, Senate and the Institutional Forum.

#### 6. **Risk Management Committee**

It is *suggested* that Council formally delegate the following matters, **for final decision**, to its Risk Management Committee:

- (a) General security on the University campus;
- (b) The general occupational safety and health of staff and students;
- (c) Crime and crime prevention on the University campus;
- (d) Risk, security and safety management on the University campus;
- (e) Environmental preservation and protection; and
- (f) Compliance with the provisions of statutes, regulations and municipal by-laws relating to safety, health and environmental preservation and protection on premises under University control.

#### 7. **Remuneration & Conditions of Employment (Senior Management) Committee**

It is *suggested* that Council formally delegate the following matters, **for final decision**, to its Remuneration & Conditions of Employment (Senior Management) Committee:

- (a) The conditions of employment of persons occupying positions in senior management;

- (b) The basis of performance evaluation of persons occupying positions in senior management and procedures for undertaking such evaluation;
- (c) Obtaining information regarding suitable remuneration packages (i.e. salaries, fringe benefits, allowances, etc.) being offered to persons in the market place in positions similar, and having similar responsibilities, to those of persons occupying senior management positions at the University;
- (d) Obtaining information regarding conditions of employment generally viewed in the market place as suitable for persons in positions similar, and having similar responsibilities, to those of persons occupying senior management positions at the University; and
- (e) Negotiating (on behalf of Council) and within any parameters (financial or otherwise) Council may wish to set with persons Council wishes to appoint to senior management positions on matters regarding remuneration and conditions of employment.

## 8. **Audit Committee**

It is *suggested* that Council formally delegate the following matters, **for final decision**, to its Audit Committee:

- (a) The reviewing of the annual audit plans of the University's external and internal auditors for adequacy of risk identification and related audit coverage (including the extent and effect of co-ordination between external and internal auditors) in order to ensure that the planned scope of audit is indeed capable of detecting weaknesses in internal financial control and of detecting fraud and other illegal acts.
- (b) The reviewing of all recommendations made by the external and/or internal auditors regarding the improvement of systems, procedures and internal control mechanisms, including the response of the Rector and/or other members of Senior Management to such recommendations.
- (c) Assessing programmes and policies of the Rector and/or other members of Senior Management with respect to:
  1. the adequacy and effectiveness of the University's internal financial control environment; and
  2. in particular, the assessing of internal controls over accounting and financial reporting systems (especially in relation to computerised systems).



- (d) The reviewing of the results of external and internal audits, any changes in accounting practices and policies and evaluating the consequent effects of such on the University's financial statements.
- (e) The review of all material year-end accruals, provisions and estimates which significantly affect or may affect the University's annual financial statements.
- (f) The review, jointly with the Rector and/or other members of Senior Management, the external auditors and (should the Committee deem it necessary) legal counsel, any litigation, claim or other legal contingency (by or against the University) which could have a material effect upon the University's financial position or operating results (including the manner in which such matters have been disclosed in the financial statements of the University).
- (g) The reviewing of the basis and number of reports issued by the auditors (external as well as internal), the size, complexity and financial condition of the University, as well as the adequacy of support given to the auditors (external and internal) by the Rector and/or other members of Senior Management.

### III **DELEGATION OF POWERS TO JOINT COMMITTEES OF COUNCIL AND SENATE**

#### I. **Joint Appointments Committee**

It is *suggested* that Council formally delegate the following matters, **for final decision**, to the Joint Appointments Committee:

- (a) The advertising (including the format and wording of the advertisement) of vacancies on the University's permanent full-time as well as temporary full-time academic (i.e. teaching and research) staffing establishment;
- (b) The appointment of teaching or research staff to vacancies on the permanent full-time and temporary full-time academic staffing establishment of the University;
- (c) The appointment of teaching or research staff to vacancies on the part-time academic staffing establishment of the University;
- (d) The appointment of non-academic staff (permanent as well as temporary) attached to faculties to vacancies on such staffing establishment of the University;

- (e) The process to determine the suitability of staff falling within its purview, and having been appointed on probation, for permanent appointment to the University's permanent staffing establishment; and
- (f) With respect to staff falling within its purview having been appointed on probation, the confirmation or non-confirmation of their appointment to the permanent staffing establishment of the University.

**Note:** The above reflects the current position.

#### **IV DELEGATION OF POWERS TO THE MANAGEMENT COMMITTEE**

It is *suggested* that Council formally delegate the following matters, **for final decision**, to the University's Management Committee:

- (a) The approval and implementation of procedures relating to the general administration and control of the University;
- (b) The rental of movable or immovable property up R100 000-00 per financial year.
- (c) The selection and appointment of pre-service professionals for physical planning and development.

#### **V DELEGATION OF POWERS TO THE RECTOR**

It is *suggested* that Council formally delegate the following matters, **for final decision**, to the University's Rector:

- (a) The day-to-day management and administration of the University; and
- (b) The rental of immovable or movable property up to R50 000-000 per financial year.

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