Towards 2030 Task Force on Governance

Phase 1 Report to the Chair of the Governing Council and the President

February 28, 2008

Introduction

This is the Phase 1 report from the Task Force on Governance, constituted as part of the *Towards 2030* long-term planning process at the University of Toronto. As a report on the first phase of our work, it:

- provides an overview of our mandate and summarizes our activities to date;
- highlights themes that have arisen in our consultations; and
- makes recommendations for the next steps to be taken in the review and assessment of governance.

We would like to emphasize that this Report crystallizes some of the major themes and critical questions to be addressed. In addition to providing background and an update, it focuses primarily on the input and advice we have received. Outcomes of our consultations are presented very much as raw data without analysis and assessment. To highlight specific collections of comments, they are inserted in shaded boxes throughout the text of the report. We have intentionally avoided stating any preliminary positions or recommendations for solutions. Our recommendations for future work are contingent upon two essential steps to be taken by the Governing Council:

- its consideration and acceptance of our findings, and
- based on this agreement, its approval of a mandate for a reconstituted Task Force or working group to deliberate and make recommendations on the themes and questions we have identified.

Overview of Task Force

Mandate

In October, 2007, the Governing Council approved the Terms of Reference for the *Towards 2030* Task Force on Governance (attached hereto as Appendix A), defining a mandate that was to proceed in two phases. Phase 1 will define gaps or deficiencies, as well as strengths, in our current system relative to enhancing our existing governance practices and taking into account the University's future directions. Phase 2 will recommend possible steps that could close those gaps, build on current strengths, and specify how that can be accomplished. Our first phase is to be completed by mid-March, at which time each of the *Towards 2030* Task Forces will be submitting their final reports. Our second phase will proceed thereafter with the approval of the Governing Council.

Process

Since we began our work, we have been primarily in a consultative mode, seeking input from within and beyond our community. We agree that our consultation needed to provide us with three perspectives: from those with expertise and experience in postsecondary education, in the corporate sector and in the broad not-for-profit sector. In context, we agreed that it was essential to hear from current and past governors and co-opted members of our Boards.

Over the past months, we have met as a full committee nine times and have had several consultations lead by subsets of our Task Force. Up to now, we have met with:

- former Chairs of the Governing Council;
- current and former Board Chairs and Vice-Chairs;
- separate groups of current and former governors from each of the Governing Council's estates – administrative staff, alumni, LGIC appointees, teaching staff and students;
- a group of current and former co-opted members of the Academic and University Affairs Boards;
- a group of current and former co-opted Business Board members;
- the Executive Committee of the Governing Council;
- President David Naylor;
- Professor Robert Berdahl, President of the Association of American Universities, former Chancellor, University of California, Berkeley and former President, University of Texas at Austin; and
- The Honourable Frank Iacobucci, Former Interim President, University of Toronto.

In addition to these conversations, we also invited submissions from the University community with an institution-wide communication and through the *Towards 2030* website. (A copy of the call for submissions is attached as Appendix B.)

With the benefit of early input and advice, we prepared a brief questionnaire that provided a frame of reference for our consultations:

1. How can we ensure an appropriate forum in governance for discussion of strategic questions (for example, emerging strategic issues and major strategic priorities undertaken)?

2. Of the current topics or matters which come to the Governing Council or its Boards or Committees, which do you believe to be the most important in terms of governance decision-making? Which would be the least important?

3. In your experience, what are the areas of overlap or duplication between or among Governing Council's Boards and Committees and divisional councils? How could we create a more streamlined and agile set of governance processes with reduced repetition? Are the Boards, Committees and divisional councils optimally structured to enable this?

4. Does the current oversight and accountability for each of the three campuses have appropriate levels of authority to ensure good governance, respecting centralized and de-centralized decision-making?

5. Similarly, does the delegated authority of divisional councils on the St. George campus provide mechanisms for sufficiently rigorous reviews and oversight?

6. Additional comments?

These questions are posted on the *Towards 2030* website as part of the invitation to provide advice.

State of the University's Governance – Themes Arising from Consultations

We have heard a number of recurring themes, as well as several unique perspectives, from the groups and individuals we consulted. At the outset it is important to note two over-arching themes that provide a foundation for our work, both as we complete Phase 1 and as we proceed to Phase 2. The first relates to our assumptions and therefore the framework for our process. The second relates to the overall strength of our University's governance.

Confirmation of Assumptions

Generally, our consultations have confirmed the assumptions with which we began:

- there is nothing compelling to point us to change from our unicameral system;
- if necessary, the *University of Toronto Act* will be revisited;
- representation of the five key estates (administrative staff, alumni, students, teaching staff and government appointees) will be preserved; and
- our governance must address the complexity of decision-making and improve governance oversight of our three campuses.

There is also general agreement that much in our governance should be able to be strengthened *without* amendments to current legislation with changes to by-laws and Board and Committee terms of reference; through changes to procedure; and through changes to the manner in which items are prepared and presented by the Administration. There were, however, three isolated departures from these consistent messages: one respondent suggested that we consider alternatives to the unicameral system; another recommended reducing the present Council by half, maintaining proportional representation; a third spoke generally to reducing the Council's size.

Essential and Unique Strength of Our Governance

We have received considerable input representing diverse perspectives. That advice has indicated that, for the most part, the University is governed well. While there are particular elements that require attention – and in some cases, meaningful change – the system itself is viewed to be appropriate for the University. While we were completely open to the possibility of radical change (revisions to membership or abandoning the unicameral system, for example) if the discussion had taken that direction, the scope and nature of the issues identified and the

consistency with which concerns were raised throughout our broad consultations clearly signaled that such change will not need to be contemplated in arriving at solutions.

One respondent – reflecting the views expressed by a number of individuals throughout our consultations – articulated important factors that make university governance different from corporate governance.

These factors provide additional context for understanding university governance:

- the nature of a **public university** which connotes accessibility, quality, and accountability to the wider public.
- **independence** that gives the University and its members the freedom to teach, to learn, to express opinion, to admit students, to determine who teaches and what is taught – but, with this freedom comes **responsibility**.
- the **independence and interdependence of numerous academic units** that comprise the institution – in our case, Faculties, Colleges, Departments, Centres, Institutes and our tri-campus organization.
- the **special responsibility of academic staff for advancing the academic mission** of the University. Those bodies representing the faculty of the University should be vested with primary responsibility for reviewing all matters regarding "who teaches what to whom" (academic programs, admission, etc.).
- the **substance of the activity of the university**, namely its teaching, research and service activities, rest on **individual effort and autonomy within a collective framework of relationships**.
- the **management structure**, although apparently hierarchical, is a hybrid of **hierarchy, collegiality and individual autonomy** that makes governance complex theoretically and practically.
- the university is a **community of people** – students, staff, faculty and alumni – with relationships among all who live and work on the campuses, and those alumni who have physically left the campus but who spiritually never leave.

The Task Force accepts that these factors influence the governance model that is appropriate for the University and a proper weighing of the factors is necessary to ensure that governance is as effective as it can be.

The essential role of governance is to provide guidance on the University's long-term strategic directions and to provide active oversight of the University's management – its role is not to duplicate that of the University's administration. Among the many principles of good governance, our model needs to be compatible with the University's mission and it needs to be multi-dimensional, given the various and complex characteristics of the University.

Areas for Examination

For this report, we have selected themes that have emerged in one form or another in most of our consultations. They are summarized below with some bullet points that illustrate the range of comments among the many specific observations, questions and suggestions we have received. Although we received a number of suggestions that were intended as solutions to identified problems, we have deliberately avoided describing possible recommendations or solutions at this time. Our focus up to now has been to identify, understand and articulate clearly the issues that need to be examined as we continue with our work.

Theme: Oversight and Accountability – Quality of the Governing Council's Meeting Agendas

Repeatedly, we heard that the Council's agendas may not comprise the right items to enable it to govern well. In the current system, the range of matters coming to the Council has lead to questions regarding accountability and effectiveness of oversight and decision-making. There are concerns whether there may be matters not coming to governance that should be and whether or not there is sufficient strategic debate within governance on key issues facing the University in the long-term.

- The structure of Governing Council meetings inhibits or prevents essential strategic discussion and meaningful debate – the forum appears to be too large, public, and orchestrated. The most productive interactions with governors come in constituency "off-line" sessions, and at the Executive Committee or agenda planning sessions.

- In addition to strategy discussions, there is a need for additional opportunities to inform and educate governors about the University and its scope of activities.

- There is a need to reconsider which issues require governance oversight, rather than being strictly administrative.

- There is a need to consider classes of matters that require governance approval at its highest level, including, for example, matters of risk management, institutional strategy, performance measures, financial and capital plans.

- It is important to define the "critical core" of good governance—what are the clusters of decisions which truly require oversight? An examination of diverse governance models may highlight the issues that should really be coming to governance.

Theme: Overlap/Duplication, Deficiencies, Ambiguities – Board and Committee Mandates

Consistently, we received comments and observations about the iterative and repetitive nature of our existing model and the manner in which it functions. The apparent duplication between levels or among bodies within the system is seen to absorb valuable time and to diffuse accountability. Additionally, the existing terms of reference are not consistently clear in defining the division of responsibilities among the various bodies and, over time, expectations and practices have evolved that can add further complexity.

- There is duplication not only in an item being considered several times, but in the same issues/questions being raised at each stage. The propensity for duplication in the current system is illustrated by requiring a matter to proceed through a number of Boards and Committees with little or no added value at progressive stages. Questions or issues repeatedly raised throughout the process and then again at the Governing Council contribute to the problem of having no time for strategic discussion.

- With duplication among various bodies, each body may presume that another has accountability – with the result that it is perceived that there is little or no accountability.

- There is a need to assess carefully those instances in which overlap provides valuable "sober second thought".

- Streamlining requires looking for ways to work more effectively, not necessarily removing responsibilities from particular bodies.

- There is overlap and duplication in the Academic and Business Boards' mandates with respect to budget and capital planning and construction, coupled with the University Affairs Board's mandate in capital projects involving student space.

- The mandates of the Committee on Academic Policy and Programs and the Planning and Budget Committee overlap (e.g. establishment or termination of academic programs) and, over time, their separate responsibilities are less clear than probably originally intended.

- There is a need to be aware of the important value of the Academic Board's "Senate" role in providing advice in matters of controversy or concern that affect the whole University.

- The division of responsibility in dealing with revenue sources across the Business Board (e.g. tuition) and University Affairs Board (e.g. fees for services), makes it difficult to have a complete overview of revenues and fees.

Theme: Delegated Authority for Academic Divisions – Lack of Clarity, Inconsistency

There is lack of clarity regarding the degree of authority/autonomy at the divisional level and the relative authority of the Governing Council and its Boards and Committees. Faculty and College Councils are primarily advisory to the Dean or Principal and have specific authority for particular academic matters. The exercise of these responsibilities varies from division to division.

> • There is a need to reconsider which issues require governance oversight, rather than being strictly administrative.
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> • There is significant variability among divisional councils in terms of their composition and the manner in which they exercise their authority. How could greater delegation be implemented effectively to ensure appropriate oversight and accountability?
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> • It would be useful to consider the reassignment of responsibilities within the current unicameral system. Is there an adequate division of labour among the three existing Boards?

Theme: Delegated Authority in the Tri-campus Context – Levels of Oversight and Accountability, Redundancy

It is clear that our governance structure was established at a time when the current vision of the University had not been developed. Our present structure and its attendant practices do not provide appropriately for the needs of a three-campus organization of the size and complexity that our University has become. They do not readily permit efficient oversight and accountability processes for UTM and UTSC, nor do they appear to provide sufficient representation within the Governing Council itself or within its existing bodies for these campuses. Ultimately, our deliberations and recommendations in this critical area will be guided by the directions that the University takes as the result of the input of the other Task Forces and, in particular, the work of the Task Force on Institutional Organization (TFIO) will inform the continued deliberations on the tri-campus issue. It will be important to consider the particular governance requirements for each of the St. George, UTM and UTSC campuses, as well as those that will fulfill University-wide governance needs.

> • The councils of UTM and UTSC function like other divisional councils, deliberating on academic matters and, with their delegated authority, make some academic decisions. On other matters, they serve in an advisory capacity to the Vice-President and Principal. These councils have developed a committee structure that parallels Governing Council's. As a result, proposals arising from UTM and UTSC can be considered at as many as seven levels by the time the Governing Council gives its approval.
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> • Discussion of options for the governance of east and west campuses should not be limited to sovereignty/dependence considerations – a range of options should be examined (*e.g.*, American multi-campus institutions, systems-like structures).

- The University will need to move deliberately through the evolution of the tri-campus system by considering the type of organizational structure which, over time, will lead to greater administrative autonomy, more Faculty involvement and more effective oversight. Demographic pressure will result in the continued growth of UTM and UTSC and any new governance approach will need to be able to identify and respond to changes as the organization continues to evolve . Opportunities for interdisciplinary programs at all campuses should be nurtured. Healthy competition between individual campuses can be productive.

- Our governance structure will need to balance system-wide oversight with appropriate distribution of authority at local levels.

Theme: Quality of Governors – Experience Mix and Representation

Consistently effective governance rests largely on the quality of governors. It is evident that the University of Toronto has benefitted – and continues to benefit – from the high quality and steadfast commitment of its volunteer governors. Any review or assessment of governance, however, must take this critical quality component into account and provide assurance that mechanisms are in place to support the strongest possible membership across its structure. Attracting and retaining the most capable governors and ensuring an appropriate mix of knowledge, skills, expertise, experience and backgrounds across the Council's membership is essential. This principle also applies to the non-governor membership of the Boards and Committees, and includes all estates – administrative staff, alumni, faculty, staff and students. In our structure, since members are both elected and appointed, a variety of factors affect the collective strength of the Council and its bodies.

- For all estates, there are variations on the multi-faceted challenges of identifying the strongest possible pool of potential governors from among their peers, fostering their interest in the University, building their knowledge and experience, encouraging them to participate in the relevant election / appointment process, and engaging them in the University's governance in appropriate ways.

- The current process for selecting LGIC candidates is not well understood and could be more clearly articulated.

- What means are there for identifying potential candidates and what would be appropriate for each of the Governing Council's estates?

- There is a need to examine representation within estates or constituencies, taking into account consistently appropriate proportional representation from the three campuses and from among other relevant groups.

- The principles and process for appointing co-opted members of Boards and Committees should be examined in light of dissatisfaction with the current process and its apparent lack of transparency.

> • Is there a need for a self-evaluation process for the Governing Council?
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> • The engagement and presence of external governors (LGIC and alumni) across Council's Boards and Committees should be examined to ensure that their independent perspectives are appropriately brought to bear on governance decisions.

Theme: Roles of and Appropriate Interfaces between Governors and the Administration

Effective governance relies on the quality of the relationship between governance and the administration. That relationship is shaped, in turn, by the knowledge of and respect for the parties' legitimate responsibilities. There is not always clarity regarding the respective roles and responsibilities of governors and the administration and the appropriate relationships between the two groups.

> • There should be a re-examination of the decision-making responsibilities of the Governing Council and those of the President and the administration to clarify the responsibilities under the *Act* and in light of enhancements we can make to practice.
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> • Many items come to governance at the University of Toronto which would not in other contexts. The result is often governance being confused with management.
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> • The substance of good governance comes down to the quality of the governance-administration relationship. In addition to supporting effective formal governance (in meetings), it also facilitates informal governance – the valuable discussions and consultations that occur outside of meetings.

Recommendations for Next Steps

Over the last weeks and months we have engaged in consultations both within and beyond the University, receiving thoughtful observations and expert input. We believe that the themes we have identified confirm where true strengths and deficiencies exist in our current structure. In our view, we have captured all of the relevant issues and we have gained a thorough understanding of how they influence optimal governance.

The Governing Council approved our mandate on the understanding that the process of assessing the current state of our governance and considering options for the future would proceed in two phases. Completion of Phase 1 with this Report was to provide guidance to the Governing Council in its decisions for the next phase. We have heard many suggestions for addressing the identified issues and it is now appropriate to move to explore these and to articulate directions and recommend potential solutions for the longer term. To this end, we would make the following recommendations:

(a) ***That the Governing Council establish a body immediately with a mandate and membership to consider and make recommendations on issues arising from the broad themes identified by the Task Force on Governance.*** *These include:*

- oversight and accountability – the quality of the Governing Council's meeting agendas;
- . overlap/duplication, deficiencies, ambiguities – Board and Committee mandates;
- . delegated authority for academic divisions – lack of clarity, inconsistency;
- delegated authority in the tri-campus context – levels of oversight and accountability redundancy;
- quality of governors – experience mix and representation; and
- . roles of and appropriate interfaces between governors and the administration.

This body could be a re-constituted Task Force on Governance, with a membership and mandate modified as needed for the specific needs arising from the identified themes.

(b) ***That the body recommended in (a) be charged with staging its work with a view to introducing enhancements to governance progressively over a defined period.***

In our view, recommendations for change could span a three-point scale and could be managed at different times: Level 1 would imply refinements, clarification of terms, and codification of practice; Level 2 would envisage re-visiting or re-stating principles, and/or re-considering structure and terms of reference; and Level 3 would mean revisions to the *University of Toronto Act.* On the latter, we would emphasize that we have encountered no compelling evidence to open the *Act* at this time. It is reasonable to suggest, however, that it may be appropriate to consider such a step once the University has introduced and had experience with the changes that arise from "Level 1 and 2" processes.

(c) ***That the progressive stages of work noted in (b) include periodic reports and recommendations to the Governing Council to facilitate ongoing communication and timely implementation of necessary changes.***

We recognize that a reasonable timetable for longer-term recommendations – for example, those requiring decisions on the University's long-term three-campus administrative organization – is yet to be determined and could conceivably be well into the future. Recommendations for steps to be taken in the short- and medium terms, however, could and should be developed over the next several months. In that context, we would suggest that the Governing Council consider requesting a final report by the end of June, 2009.