



Regulatory Compliance and Private Education Provision in South Africa: Boon or a Bane?

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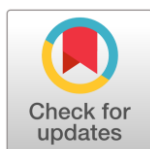
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Abstract: This paper explores the impact of certain regulations on private higher education (PHEI) provision and delivery in South Africa. By scrutinizing relevant legislation and policies, the researchers demonstrate that although various government policy documents, inter-alia, the National Development Plan-2030, allude to the important role of private higher education providers in South Africa, the various policies and legislation do not seem to create a very conducive and enabling climate. Ranging from funding to accreditation, the perception among private HE providers is that there is little support for PHEIs.

Keywords: Education, Private higher education, South Africa, Compliance.

Introduction

To ensure the integrity and quality of higher education, the quality council, namely, the Council on Higher Education (CHE) oversees all aspects of higher education delivery, ranging from accreditation to quality assurance. Public universities and Private Higher Education Institutions (PHEIs) belong to this sector and are therefore quality assured by the CHE. However, this begs the following questions:

- should the public and private entities be regulated in the same way?
- are the regulations stifling or promoting private higher education provision?

Public universities and PHEIs differ in many respects. For example, universities are government funded through the taxpayers, while private HEIs are privately owned and privately funded. Governance structures also

differ significantly, in that a public higher education institution follows a university structure which is benchmarked internationally, whereas, PHEIs currently, may not call themselves universities, although they offer similar qualifications (degrees) to that offered by the universities. This has implications for students who question the status of PHEIs, although the qualifications offered may be the same and they are able to articulate between private and public institutions in pursuit of their academic journeys.

In light of the above, the researchers explored a few areas where current regulation appears to be misaligned and favours public universities.

Programme Accreditation and Re-accreditation

All programmes offered by PHEIs have to be accredited by the CHE, recorded on the National Qualifications Framework (NQF) by the South African Qualifications Authority (SAQA) and registered by the Department of Higher Education and Training (DHET). Accredited programmes also have a five-year life-span and have to be re-accredited by the CHE every 3 to 5 years. If a programme is not re-accredited or de-accredited, this has major reputational as well as financial impact for the institution concerned.

With every submission for accreditation, there is a fee payable and should the institution be required to submit any additional information related to an application, then an additional fee may apply¹. A CHE site visit may follow an accreditation or re-accreditation application, and this has additional costs, all of which are borne by the PHEI. Public universities on the other hand are however exempt from these fees, as they are supported by government.

In addition to application fees, there are a number of resources and infrastructure that need be in place, including, among others, physical libraries with the required holdings to offer all accredited programmes. The emphasis on the physical library seems unreasonable since we are in a virtual world, and educational resources are "open" and readily available. Furthermore, being publicly funded, universities have agreements between and among themselves which allow students to access resources freely. Very few such agreements, if any, exist among PHEIs or between PHEIs and public universities.

Furthermore, the need for appointment of senior academics and administrative staff with relevant expertise and experience, seems illogical, since there is no guarantee that an application for accreditation will be approved. The aforementioned, is sometimes burdensome and may require serious investment on the part an institution, even though the outcome of the application is not guaranteed. Furthermore, sourcing the necessary staff with the requisite qualifications and academic work experience can also prove challenging. For example, it is difficult to find a Business Management specialist with relevant teaching experience, who is willing to be employed on a full time basis at an institution of higher learning. The challenge is compounded by the fact that public higher education institutions offer higher remuneration packages (Stander & Chaya, 2017), and benefits such as sabbatical leave. Thus, the PHEIs have to therefore compete for the same pool of experts, and are thus disadvantaged.

There is the view that private higher education institutions (PHEIs) are more regulated than the publics (Stander & Chaya, 2017). For example, where PHEIs have their programmes rigorously audited and quality checked against the CHE's 19 Criteria for Programme Accreditation, public universities follow a different process usually linked to funding, such as the Programme Qualification Mix (PQM) clearance at the DHET. Thus, universities in South Africa are not evaluated against Criterion 3, 4, 7 and 8, since the CHE assumes that these entities have fulfilled these requirements as part of establishing the Programme Qualification Mix (PQM) clearance (Stander & Chaya, 2017). In order to remain competitive, PHEI's need to respond to the

¹ The cumulative financial impact may be dire and thus make the private HEI less competitive.

demands of industry, in a rapidly changing world, however, the lengthy accreditation process could place PHEI's at risk². The lengthy approval process also impacts negatively on the need to be agile and responsive to the needs for education and training and dampens the entrepreneurial spirit of private higher education providers. In a letter submitted to the CHE, by South African Private Higher Education (SAPHE), on 13 November 2017, the association presented various statistics with regard to accreditation and re-accreditation delays. For example, in analysing timelines associated with 84 applications by the SAPHE members since 2014, 30% of the applications had not been processed by 2017, and it appeared that it was not uncommon for an application process to take 18 months or longer.

Another regulatory requirement is to provide a research profile on each academic staff member as per Criterion 3. Academics at public universities are incentivized generously for research and publication, since the state funds research and also provides publication subsidy. However, private HEIs are also required to incentivise staff to publish and this increases provisioning costs.

Learnerships

A Learnership is a work-based learning programme that leads to an NQF registered qualification. The programme includes theoretical and practical work-based or experiential learning. The experiential Learning is gained at the student's place of employment for the duration of the

Learnership and the theoretical learning is provided by an accredited training provider.

The Learnership qualification is governed by a specific Sector Education and Training Authority (SETA) which registers the Learnership with The DHET. The Learnership assumes that an agreement is entered into for a specific period of time between a learner, an employer and a training provider.

Learnerships were introduced by the South African government to address the gap between education and training provision and the needs of the labour market, by linking theory and practice, and in so doing, assist learners gain the necessary skills and workplace experience. This will open up better employment or self-employment opportunities. Learnerships are intended, and are often seen as the crux of skills upliftment in terms of the South African Skills Development Act.

Learnerships are very attractive to the industry, as they also offer employers a tax incentive. They allow for an annual deduction per learner upon registration of the learnership registration and thereafter upon successful completion of the learnership.³ A few private higher education institutions offer qualifications that are registered as Learnerships, by providing both a strong theoretical and workplace-based component.

The challenge with learnerships is the time period allotted to complete the learnership, as directed by the relevant Sector Education and Training Authority. For example, distance learning institutions enrol students on their programmes allowing them double the time to complete their studies compared to that

² It may sometimes take up to two years before an application for accreditation is approved by the various legislative bodies (CHE/SAQA/DHET), before the first group of students could be enrolled into the programme.

³ In 2015, an employer could claim R30 000.00 per learner upon registration and then a further R30 000.00 per learner upon completion of the learnership. For disabled learners, R50 000.00 could be claimed.

allowed to a full-time student. Learnerships seem not to cater for the distance learning needs of working adults, in that the students are required to complete a programme in the minimum duration period, which is equivalent to studying the programme full-time.

As working adults, juggling work, personal life and studies is challenging and there are many students who cannot keep up with the demands and end up dropping out of the programme or being withdrawn from the programme for not completing in the prescribed time. Although these students have the option to complete the programme with an institution in their own capacity, as they are still within the maximum registration period, for whatever reason, they generally do not do so. From an institution's point of view, student attrition will therefore have a negative impact on the throughput of programmes on offer.

Recognition of prior learning (RPL)

"RPL is the identification, assessment and acknowledgement of the full range of an individual's skills, competencies, knowledge and work ethos obtained through informal training, certificated learning, non-accredited courses, workshops, on-the-job experience and life experience. The learning and experience is compared against the learning outcomes required for a specific qualification (University of Cape Town, n.c.)"

As stated in the National Qualifications Framework (NQF) Act, No. 67 of 2008, RPL is an enabling mechanism to "facilitate access to, and mobility and progression within, education, training and career paths "; and to "accelerate the redress of past unfair discrimination in education, training and employment opportunities ".

RPL for access

This route may be considered where a candidate does not meet the specific admission requirements of a particular qualification, but has an abundance of relevant knowledge and skills (acquired through inter-alia, work experience related to the field of study, formal and informal learning, etc.).

RPL for exemption

This may be considered where a candidate applies for exemption from doing some modules within a qualification as a result of knowledge gained in specific areas through informal, non-formal and formal learning.

Credit Accumulation and Transfer

The recognition of credits for the purposes of transfer from one qualification to another is determined by the nature of the qualification, the relationship between them, the nature, complexity, and extent of the curricula associated with the specific subjects to be recognised for exemption and/or inclusion, and the nature the assessment used" (Council on Higher Education, 2016).

The challenge relates to applying RPL for Access and the restriction on the number of candidates that an institution may accept into a cohort via RPL. According to the CHE, "not more than 10% of a cohort of students in a programme should be admitted through an RPL process. This is a programme accreditation requirement" (Council on Higher Education, 2016).

This 10% appears to be an arbitrary figure and could be related to government subsidies granted to public institutions. At public institutions, there is a lack of funding for the implementation of RPL. According to DHET

(2016), there are no incentives to implement and embed RPL in the education and training system. The policy also states that “the absence of sustainable funding has been identified as a clear barrier to wide - scale RPL implementation (Department of Higher Education, 2016)”.

The question to be asked is if the 10% ruling is related to government subsidies, why should this rule apply to the Private Sector?. Furthermore, the 10% ruling is contrary to the efforts of a country which is to be transformative and still addressing the inequities of the apartheid era. “RPL must be seen as a key feature of a lifelong learning system alongside a range of related strategies, mechanisms and education and training opportunities,” and “RPL carries specific significance as it is central to an inclusive, democratic education and training system (Department of Higher Education, 2016)”.

Notwithstanding the above, the CHE does however, indicate, that “..under exceptional circumstances, motivations to exceed the 10% quota will be considered by the Higher Education Quality Committee (HEQC) as part of its accreditation processes” (Council on Higher Education, 2016). However, this is the exception rather than the rule.

Conclusion

In order to address some of the challenges and contradictions alluded to above, the private HEIs have joined associations such as SAPHE and the Association for Providers of Private Education and Training (APPEDT), so as to lobby the relevant authorities and share their concerns and frustrations.

There is evidence that these engagements with not only the CHE but also the other regulatory bodies such as the DHET are proving incrementally fruitful. The CHE is

amenable to discuss matters of concern with private HEIs and have included private entities in the quality assurance review for the sector. A Draft bill is already in place to provide an opportunity for private HEIs who meet generally accepted criteria to be classified as universities, university-colleges and colleges. Moreover, some of the private HEIs may even be classified as public universities and qualify for state subsidies. Thus, although regulations seem to be applied differently to private sector, there appears to be a move by regulatory bodies to address this gap.

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