

Notes on Good Governance in Sport

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The term 'governance' in itself has been recognised as being extremely difficult to define both within a sporting context and in a wider context (Dowling, Leopkey, & Smith, 2018; Callahan, 2006); it can be used in a number of different ways with subtly different context dependent meanings and for different and specific purposes. Studies of good governance have tended to focus on one or more generally well accepted set of principles (Dowling et al., 2018) such as; transparency, accountability, democracy, responsibility, equity, effectiveness and efficiency (Henry and Lee, 2004) or performance, accountability, transparency and participation (Parent, Naraine and Hoye, 2018). These principles of good governance highlight a tension between the commercial interests of sport and the ethical expectations of sport as a moral and educational tool (Naha & Hassan, 2018; Beech, 2013). Nevertheless, few studies seem to consider or fully explain the role that legal norms and reasoning processes play in this framework and which potentially relieve the pressure between these two competing values. The principles outlined by Henry and Lee (2004) and Parent, Naraine and Hoye (2018), although not exhaustive, make no express mention of legal rules or standards against which governance decisions are judged. Similarly, Beech (2013, p31) describes organizational governance as being "concerned with normative, ethically informed standards of managerial [*or organisational*] behaviour" but again, there is no explicit recognition of the role that legal principles play in informing those standards. If the ultimate question is how 'ought' organisations behave, then express references to legal norms as part of the framework in deciding what is good or bad, seems conspicuous by their absence. This omission may be understandable given that sport has historically sought autonomy from external influences including the general law (Lewis, 2014), but nevertheless, it suggests that the concept of 'good' organisational governance in sport has developed without much attention on the role that legal norms ought to play.

This is not to say that there are no studies that recognise the relevance of legal norms to organisational governance. Dowling, et al. (2018) recognise legal norms have 'profound implications' for sports governance, and Bruyninckx (2012) has noted the relevance of the legal framework in the context of good governance. However, it seems to have been viewed outside the typical normative framework for considering good governance and is under-developed in that context. Dowling et al.'s (2018) scoping review, for example, places law in a separate category when reviewing the sports management literature and not central to the concept of good governance itself.

There have been several reports and recommendations for good oversight and governance in sport at the level of selection policy in particular. All highlight the necessity for clear and stable criteria based upon relevant factors, that are duly followed and determined with independence, transparency and good faith at their heart (e.g. Squire Patton Boggs, 2016; UK Sport, 2016; Grey-Thompson, 2017). The problem may arise from the fact that many board members on NGBs are volunteers that represent important stakeholder groups (Walters, Tacon, & Trenberth, 2011) and yet are also expected to hold the requisite skills and expertise to ensure good governance and legal compliance (Ferkins & Shilbury, 2015).

As such, there is a clear need for those within NGBs to recognise and have sufficient understanding of legal norms and processes. Many policies were originally written by those who are not skilled in draftsmanship (Findlay & Corbett, 2003) and as such, lack robustness under legal scrutiny. There are several strategies that may help to remediate this deficiency. Arguably, the professionalization of sport should also entail a professionalization of boards of governance, since roles and responsibilities at a 'backroom' level will also require increasing amounts of time, oversight and management if the NGB is to run effectively. This may be particularly relevant at the level of legal training and expertise.

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