

**MANAGING A PRIVATE HIGHER EDUCATION INSTITUTION WITHIN
THE CURRENT HIGHER REGULATORY CONTEXT IN SOUTH AFRICA**

by

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DECLARATION

I declare that **Managing a private higher education institution within the current higher regulatory context in South Africa** is my own work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

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SUMMARY

The South Africa higher education environment has been regulated through the enactment of policies promulgated by the governments of the day since the establishment of South African higher education. Even in the early days, the higher education sector comprised both public and private higher education institutions. Since South Africa's democratic election in 1994, the higher education environment has been altered by the current government by means of policy enactment. Limited research has been conducted on the impact of the current regulatory context on the management of a private higher education institution. Therefore, the focus of this study was to determine how a private higher education institution within the current higher regulatory context in South Africa is managed.

A qualitative research methodology was used to study the phenomenon. For this purpose, a case study, an accredited and registered private higher education institution was identified and individual interviews conducted with its six managers. The study adhered to ethical principles and techniques to enhance the validity/trustworthiness of the findings.

The study found that the current regulatory enactment that was initiated under the new democratic government elected in 1994 had far-reaching implications for the private higher education sector. As a consequence, management structures, policies and procedures, quality assurance processes and procedures and management functions were altered. However, some of the regulatory criteria still have an impact on the management functions as private providers still struggle for full recognition by the government.

Key terms:

Private higher education; higher education act, higher education regulations, council on higher education; department of higher education; institutional management; management structures; management functions; policies and procedures; quality assurance process and procedures

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LIST OF ABBREVIATIONS

African National Congress	ANC
Colleges of Advanced Technical Education	CATE
Committee of Technikon Principals	CTP
Council on Higher Education	CHE
Department of Education	DoE
Department of Labour	DoL
Dutch East India Company	DEIC
Education and Training Quality Authority	ETQA
Further Education and Training	FET
Higher Education Qualifications Framework	HEQF
Higher Education Quality Committee	HEQC
Higher Education	HE
Human Resource Development	HRD
Human Sciences Research Council	HSRC
Information Communication Technology	ICT
National Commission on Higher Education	NCHE
National Curriculum Statement	NCS
National Education Coordinating Committee	NECC
National Education Policy Investigation	NEPI
National Learner Record Database	NLRD
National Plan for Higher Education	NPHE
National Qualifications Framework	NQF
National Senior Certificate	NSC
Outcomes-Based Education	OBE
Recognition of Prior Learning	RPL
Reconstruction and Development Programme	RDP
Sector Education and Training Authorities	SETAs
Sector Education and Training Authority	SETA
South African College Schools	SACS
South African Qualifications Authority	SAQA
South African Universities Vice-Chancellors Association	SAUVCA

Union of Democratic University Staff Unions	UDUSA
United Nations Educational, Scientific and Culture Organisation	UNESCO
University of the Cape of Good Hope	UCGH

CHAPTER ONE: ORIENTATION OF STUDY

"How today's managers of institutions of higher education 'succeed' is a question needing an answer. Higher education is one of the most rapidly changing sectors of our society" (Brunyee, 2001:8).

1.1. INTRODUCTION

Higher education is linked to and influenced by factors such as economical, social and political developments worldwide. The direct link between higher education and economic growth can clearly be seen in countries with labour forces with high levels of formal schooling. These countries have higher levels of economic growth than countries with lower levels of formal schooling (Carnoy, 2006:4). Social investment in education generates greater and more sustainable returns to nations than any other investment (European Commission, 2007). Political and policy developments focus on achieving economic and social goals by means of influencing higher education to produce a highly skilled labour force (Bin Talal, 2001:2).

The factors that influence higher education sparked an international debate during the mid-1990s. The United Nations Educational, Scientific and Culture Organisation (UNESCO) and the World Bank coordinated the debate and subsequently published papers on the outcome of the debate. The papers published by the World Bank, *Higher education: lessons of experience* (World Bank, 1994) and UNESCO's *Policy paper for change and development in higher education* (United Nations Educational, Scientific and Culture Organisation, 1995) listed the main factors influencing higher education. These main factors were quantitative expansion (that is nevertheless accompanied by continuing inter-country and inter-regional inequalities in access), diversification of institutional structures, programmes and forms of studies, financial constraints and the lack of management and institutional leadership (Centre for International Higher Education – Boston College, 1996:1).

Further studies by the World Bank resulted in the release of the *Higher education in developing countries* paper (World Bank, 2000) and *Constructing knowledge societies: new challenges for tertiary education* (World Bank, 2002). These studies underline the influence of the main factors listed in the previous studies, as well as social, economic and political developments on higher education. Countries were urged by the World Bank to make it a national priority to determine the impact of these factors on their higher education systems (World Bank, 2002: xviii-xix).

South Africa's pre-1994 higher education system was shaped by social, political and economic inequalities of class, race, gender, institutional and spatial nature. South Africa had its first democratic election in 1994. South Africa's new democratic government led by the African National Congress (ANC), committed itself to transforming higher education as well as the inherited apartheid social structure and institutionalising a new social order (Badat, 2007:1). Nonetheless, the transforming of higher education led to tensions becoming evident between the achievement of equity and efficiency in the higher education system which resulted in government legislative and other developments for higher education (Gravett & Geysler, 2004:6).

The government's legislative developments focussed on private higher education institutions, owing to the perceptibly rapid expansion of private higher education in the higher education sphere. Subotzky (2003:419) mentions in a Human Resource Development (HRD) review by the Human Sciences Research Council (HSRC) that the government viewed the unrestrained expansion of private higher education institutions and public-private partnerships, especially in distance education, disruptive to the coordination of national planning. As a result, a moratorium was placed on new public-private partnerships and the establishment of public satellites.

Additionally, Prinsloo (2005:5) notes that the government's legislative developments extended to the control of the quality and sustainability of private providers. Consequently, legislation was formalised and private

providers had to register with the Department of Education (DoE) by completing the *Manual for the registration of private higher education institutions* (Department of Education, 1998a) and applying for programme accreditation with the South African Qualifications Authority (SAQA), through the completion and submission of the *Procedures for preliminary accreditation: Private higher education institutions* (South African Qualifications Authority, 1998c). The process of accreditation was subsequently taken over by the Higher Education Quality Committee (HEQC), by means of the *Programme accreditation Framework* (Council on Higher Education, 2004f) and *Programme criteria* (Council on Higher Education, 2004c) documents that provide the framework and criteria for the accreditation of private higher education institutions and their programmes (Council on Higher Education, 2004g:1). This was notwithstanding, the fact that private higher education has been a phenomenon since the establishment of higher education in South Africa.

1.2. BRIEF HISTORY OF PRIVATE HIGHER EDUCATION IN SOUTH AFRICA

Almost all of South Africa's well-established and prestigious public higher education institutions have their roots in private higher education. Metrowich (1929:6) notes that the first "higher education" institution, the South African College, was established in Cape Town in 1829 by citizens of the town. The college became a fully public institution by 1878, and became, the University of Cape Town in 1918. Likewise, the University of the Witwatersrand (University of the Witwatersrand, 2007) and the University of Pretoria (University of Pretoria, 2007) were both established as private educational institutions. They have their roots in the Kimberley School of Mines, which was established in 1896 by the community and supported by the mining companies to serve the needs of the rapidly expanding mining industry. Later, the school moved to Johannesburg and became the Transvaal University College, which later split into two separate universities, namely, the University of the Witwatersrand in 1922 and the University of Pretoria in 1930 (University of the Witwatersrand, 2007; University of Pretoria, 2007).

In a Centre for Higher Education Transformation report, Fehnel (2002:227-228) points out that the proliferation of private education was a response to market demands and that by 1974 the majority of the thirty-two registered professional institutes active in South Africa were privatised. In addition, private providers also offered alternative routes to matriculation, which led to the establishment of Intec College (1906), Lyceum College (1928) and Damelin College (1945). By the 1950s, these institutions offered certificates and qualifications as well as alternative matriculation programmes and by 1991, two private for-profit providers, Midrand Campus and Damelin College, had also begun to offer contact instruction to students enrolled at the University of South Africa.

The student numbers of these private higher education institutions were relatively small in comparison to student numbers in the public higher education institutions, according to the Council on Higher Education's (CHE) study on The state of higher education in South Africa, and formed a small part of the overall higher education landscape (Council on Higher Education 2009:11). However, the government and the public sector were alarmed by the remarkable growth of the private higher education institutions for a number of reasons, such as the that private higher education providers would attract students away from public higher education institutions and their quality in terms of facilities, staff, resources and value for money (MacGregor, 2008). These concerns, combined with changes in government's economic and social goals, resulted in new regulations for higher education institutions.

1.3. BRIEF HISTORY OF THE CURRENT HIGHER EDUCATION REGULATORY CONTEXT IN SOUTH AFRICA

During the 1990s initiatives for a post-apartheid higher education policy were developed. These were initiated by the National Education Policy Investigation (NEPI), a project of the National Education Coordinating Committee, the Union of Democratic University Staff Unions (UDUSA) policy forum and the Centre for Education Policy Development, linked to the ANC (Council on Higher Education,

2004g:24). After the 1994 democratic election, former president Nelson Mandela appointed the National Commission on Higher Education (NCHE). The NCHE released its first report, *A framework for transformation* (National Commission on Higher Education, 1996a), in 1996, which recommended a foundation for the new transformation agenda (Department of Education, 1996:1). The agenda was not only for the higher education system but also for governance, management and teaching. Consecutive reports released by the NCHE and DoE were *An overview of a new policy framework for higher education* (National Commission on Higher Education, 1996b), the *Green paper on higher education* in December 1996 (Department of Education, 1996), the *Draft white paper on higher education* in April 1997 (Department of Education, 1997d) and the *Education white paper 3 - A programme for higher education transformation* (Department of Education, 1997a & African National Congress, 2007).

The policy framework and the goals, values and principles as outlined in the *Education white paper 3 - A programme for higher education transformation* (hereafter referred to as the *White Paper*) (Department of Education, 1997a) formed the basis of the *National plan for higher education* (Department of Education, 2001a). Government used the principles in the *White Paper* (Department of Education 1997a) as a basis to keep in line with new trends in higher education across the globe (Parliament of the Republic of South Africa, 2006:7). The National Plan for Higher Education (NPHE) established objectives, timeframes and levels for higher education. Included were regional cooperation in relation to programme rationalisation, a language policy, the development of a new funding policy, a regulatory framework for quality assurance, and proposals for the restructuring of the higher education landscape through mergers and incorporations. In addition, it contained a new academic policy and a proposal for the establishment of a National Higher Education Information and Applications Service (Centre for Higher Education Transformation, 2003:6).

The regulatory framework's intended purpose was to regulate higher education, as stated by the *Higher Education Act 101 of 1997* (hereafter referred to as the HE Act), (Department of Education, 1997b) and its successive amendments, *Higher Education Amendment Act 55 of 1999* (Department of Education, 1999), *Higher Education Amendment Act 54 of 2000* (Department of Education, 2000), *Higher Education Amendment Act 23 of 2001* (Department of Education, 2001b), *Higher Education Amendment Act 63 of 2002* (Department of Education, 2002b), *Higher Education Amendment Act 38 of 2003* (Department of Education, 2003c), *Higher Education Amendment Act 39 of 2008* (Department of Education 2008b) (Council on Higher Education, 2006e:2). On the other hand, due to the history of private higher education institutions being taken over by government to become state-owned, as indicated in section 1.2, there was no policy or legislation for the regulation of private higher education institutions (United Nations Educational, Scientific and Culture Organisation 2006:133).

There is an articulated view that prior to 1994 the state of private higher education in South Africa was largely characterized by a free for all paradigm where the main concern was gain and profit making (Council on Higher Education, 2006a:10).

Although private higher education providers offered more career-focussed and short cycle certificates and diploma programmes, the Minister of Education and the CHE were in agreement that the higher education sector was inadequately regulated in that private higher education institutions were not regulated in such a way to fulfil a complementary role to public higher education institutions and/or contributing to social development (United Nations Educational, Scientific and Culture Organisation 2006:137-138). Therefore, the post 1994 regulatory framework focussed primarily on the private higher education institutions, through the HE Act, (Department of Education, 1997b), its successive amendments, applicable to private higher education, and the *Regulations for the registration of private higher education institutions* (hereafter referred to as the Regulations) (Department of Education, 2002a), made provision for the regulation of private higher education. The regulatory

framework ensured that private higher education institutions are financially viable, have the necessary physical and human capacity and that their academic offerings meet acceptable standards of quality (Council on Higher Education, 2003a:1).

As a result, private higher education institutions were engaged in a complex dual process of registering with the DoE and seeking accreditation with the SAQA in 1998. Although the CHE was established in 1998 in accordance with the HE Act, did SAQA filled the accreditation function as the CHE was not yet accredited by SAQA as the band Education and Training Quality Authority (ETQA) (Council on Higher Education, 2003a:2 & Council on Higher Education 2003c:2). The guidelines issued by the DoE for private higher education providers on the registration procedures recommended that private higher education institutions form partnerships with public institutions in order to facilitate the registration process (Fehnel, 2002:227-228). However, the then Minister of Education imposed a moratorium on public-private partnerships from February 2000 onwards, because such partnerships were viewed as unregulated and too cumbersome (Mabizela, 2005:3). The CHE supported the decision by stating, "Some of the partnerships could have possible detrimental effects on other public institutions" (Council on Higher Education, 2000:45).

Owing to the constant changes to the regulatory framework, private higher education providers were left unsure of what the processes and procedures stipulated by the regulatory framework and their current legislative position entailed. However, more uncertainty regarding the accreditation process was created when the CHE was accredited by SAQA as the band ETQA for higher education in 2002. The CHE took over the programme accreditation function from SAQA and introduced new accreditation criteria and procedures (Council on Higher Education, 2003a:2). The CHE also began to implement its other functions (such as the auditing of institutions and the promotion of quality assurance at higher education level), as laid down by the HE Act. These functions were conducted through its permanent quality committee, the HEQC (Council on Higher Education, 2007d).

All these components of the regulatory framework had a disruptive impact on private higher education institutions and their management. However, the changes have continued to take place, with the introduction of amendments to accreditation procedures (from paper-based to online), the release of a new qualifications framework for higher education (the Higher Education Qualifications Framework [HEQF]) (Department of Education, 2007), the upgrading of the HEQC-online system for accreditation and the release of the *Site visit preparation manual for institutions* (Council on Higher Education, 2008b) (Council on Higher Education, 2008a).

1.4. PROBLEM STATEMENT

This study emanated from my personal involvement with the management of a private higher education institute within the current higher education regulatory environment. The researcher was exposed to the private higher education and regulatory environment for eleven years and has experienced the impact of the regulatory context on the management of a private higher education institution. These effects are experienced in terms of quality assurance systems and processes, the quality of teaching and learning and the recognition of the institution and private higher education within the South African higher education sector. The main research problem was reformulated as a research question as follows: How is a private higher education institution managed within the current higher regulatory context in South Africa?

1.5. THE AIM OF RESEARCH

This study aimed to provide research-based documented evidence of the impact of the current higher education regulatory context on the management of a private higher education institution in South Africa. In addition, the study aimed to establish the impact in terms of the:

- Quality assurance systems and processes.
- Quality of teaching and learning.

- Recognition of an institution and private higher education in the South African higher education sector.

1.6. MOTIVATION FOR THE RESEARCH

Sixteen years (post-1994) of political, policy, economical and social developments changed the face of private higher education in South Africa. All these developments presented internal constraints regarding the management of all the resources within the management process and resulted in a possible decline in the numbers of registered private providers as noted by Fehnel (2002:227).

However, thus far, relatively little research was done on the management of private higher education institutions within the current regulatory context. It is a cause for concern as private higher education is recognised as a way of addressing the skills shortages in South Africa national, as stipulated in the White Paper (Department of Education, 2001) and a recent study conducted by the CHE on the State of higher education in South Africa (Council on Higher Education 2009), as well as internationally, as indicated by a study conducted by the United Nations Educational, Scientific and Culture Organisation on the role of private higher education institutions in Africa (United Nations Educational, Scientific and Culture Organisation 2006) (Department of Education, 2001a:2.55; Council on Higher Education 2009:11 & United Nations Educational, Scientific and Culture Organisation 2006:33).

While writing *Chasing credentials and mobility – private higher education in South Africa* (2004), HSRC researcher Glenda Kruss (2004) notes a lack of published research material available on the subject and mentioned that most of the studies focussed on the “contours and forms of the private higher education sector” (Kruss, 2004:5). Mabizela (2005:4) also refers to the paucity of available literature in his study, *The business of higher education – a study of public-private partnerships in the provision of higher education in South Africa*.

Research more relevant to this study was conducted by the HEQC in 2006 and 2007 respectively, namely, *The impact of the Higher Education Quality Committee accreditation on private higher education in South Africa* (draft) (Council on Higher Education, 2006a) and the *HEQC evaluative study of institutional audits 2006* (Council on Higher Education, 2007a). The studies underline the assumption that the HEQC's accreditation and audit processes had an impact on the private higher education enterprise in South Africa (Council on Higher Education, 2006a:8).

Clearly, within the context of the *White paper* (Department of Education 1997a) and CHE viewpoint, there is a national need to ensure the sustainability and expansion of private higher education providers within South Africa. Therefore, there is clearly a need for more research on the phenomenon of the management of private higher education providers within the current regulatory context by means of the appropriate research methodology and design.

1.7. RESEARCH DESIGN AND METHODOLOGY

The research design and methodology appropriate for this study was considered by weighing up qualitative research methodologies, which focus on the different experiences and perspectives of an individual, on the one hand and quantitative research methodologies, on the other hand, which are objective and can be revealed empirically (Neill, 2007:1). As the intended research study and research audience focussed on the management team's experiences and perspectives of the impact of the higher education regulatory context on their management functions, a qualitative research design and methodology was considered appropriate. Therefore, the study endeavoured to understand the world lived and worked in by recognising the historical and cultural settings of the sample population (Creswell, 2003:8; Creswell, 2007:20-27). Thus, the researcher aimed to gain an understanding of the totality of a human being through its interwoven relationships and wanted to capture the lived experience of the participants by being part of the research and gaining insight in the human phenomena (Gray, 2004:1-4). For that

reason, the researcher's paradigm was supported by social constructivism and constrained by the perspectives of the critical theory framework, which manifests in a phenomenological study.

In order to have optimal control over factors that could influence the validity of the research findings, the research design outlined the research approach and methods (Burns & Grove, 2003:223). A multi-method design (triangulation) was implemented by using data sources such as document analyses, case studies and individual interviews to approach the research problem of the impact of the current higher education regulatory context on the management of a private higher education institution (Commonwealth of Learning, 2004:8-12).

1.7.1. Document analysis

Document analyses were conducted on documents such as research studies, policies and procedures and other documents pertaining to private higher education as an informational resource (Taylor & Lindlof, 2010:231). However, as discussed in paragraph 1.6, the document analysis provided a limited amount of information. The case study research method was therefore used as a supplementary and cross-checking data source (Commonwealth of Learning, 2004:8).

1.7.2. Case study

The case study method was considered to be suitable for this study as it focusses on the detailed investigation of a bounded system over a period, utilising sources of data found at the location obtained from a group of people that are likely to be comprehensively connected to political, social, historical and personal issues (McMillan & Schumacher, 2006:26, e-How, 2011). By involving the management team in a single case study, this method ensured that the collection and presentation of the data pertaining to the management team was detailed and included the versions of the management team

themselves (Colorado State University, 2008). The use of individual interviews emphasised the exploration and description of the characteristics of the management team, their norms and mores and the nature of the institution (Johnson & Christensen, 2007:31-370).

1.7.3. Individual interviews

The individual interviews entailed an in-depth and intensive interviewing process with the six participants from the management team, which included an exploration of their perspectives, experiences, expectations and concerns related to the management of a private higher education institution within the current higher education regulatory context. In addition, it sought to determine the changes, if any they might perceive in their management processes as a result of their involvement in the process (Pathfinder International, 2006:3). The management team was identified as a suitable sample, because the group was small, albeit diverse and consisted of six people who were responsible for the management of the selected private higher education institution.

1.7.4. Sample

The sampling for the study was based on purposive sampling by selecting those staff members in the private higher education institution that were the most representative and would provide the best information in terms of the research question (Munhall, 2007:357). The history of this private higher education institution in terms of its status as an accredited and registered private higher education institution in the current higher education regulatory context was also considered. In addition, the research question and the available resources were influential in the choice of the data collection methods (Kumar, 2005:119).

1.7.5. Data collection

As indicated in paragraph 1.7, multiple data sources were used in the data collection process that began with a literature study of local, as well as overseas sources to establish what has been published on managing a private higher education institution within the current South African regulatory context. As indicated in paragraphs 1.7.1 – 1.7.3, the local literature on this topic was found to be very limited and the case study method, together with individual interviews, was used for supplementing and cross-checking the data as well as triangulating the data. Importantly, the single case study method provided for an in-depth investigation of the experiences of the private higher education institution's management team, based on the participants all being located at the same site, all having experienced the phenomenon that was being investigated and all able to communicate their lived experiences regarding adhering to the higher education legislation (Jackson, 2003:15; Creswell, 2007:74).

During the individual interviews, the researcher and participants were able to discuss their interpretation of the world in which they lived in and how to express it through their own point of view (Cohen, Manion & Morrison, 2005:267). Accordingly, written permission was obtained from the institution and participants by means of a letter of consent before the commencement of the individual interviews (Creswell, 2007:125). Ensuring that participants were comfortable and did not feel intimidated, a discussion guide outlining the questions and topics to be covered during the individual interview was sent to the participants in advance (International Training and Education Center on HIV, 2009). Individual interviews lasted 10 tot minutes depending on the participants' underlying motivations, beliefs, attitudes and feelings regarding the research problem (Medix Intelligent Information, 2010). Furthermore, permission was obtained from the participants to take field notes and to record the individual interviews electronically (Warren, 2002:91). In addition, the data analysis process was started during the individual interviews through the facilitation of the discussions. The individual interviews generated rich data

that were complemented by the researcher's field notes and transcript information (Rabiee, 2004:657).

1.7.6. Data analysis

The purpose of analysing the data was to reduce the data to an intelligible and interpretable format to ensure that the relationships between the research problem could be studied and tested so that a conclusion could be drawn from the findings (Marshall & Rossman, 2011:212-213). Permission was granted by the participants to make field notes and to tape record the individual interviews (Warren, 2002:91). The field notes were expanded by the researcher after the interview, as a form of verification. Accordingly, the individual interviews were recorded and transcribed verbatim.

The transcripts were read for a number of purposes. The first purpose was to form an idea of the general responses by focussing on the major opinions and attitudes of the respondents. The second purpose was to identify specific facts linked to the original objective of the study and thirdly, the purpose was to remove any responses coerced from the participants by the researcher or from sections poorly transcribed. The transcripts were then coded into categories in the margins and compared against the individual interview questions. The codes were then listed and each and every response was indicated next to the codes and compared with the field notes. The results from the responses were then compared with the original research question and summarised to conclude whether the study answered the question and was trustworthy (Silverman, 2011:284).

1.7.7. Trustworthiness

Validity determines whether the research truly measures what it was intended to measure (Joppe, 2000:1). Creswell & Miller (2000) suggest that validity is affected by the researcher's perception of validity in the study and the researcher's paradigm assumption. Validity for this study was achieved by

means of the research question, the aim of the study and the theoretical perspective of the study. When data was collected the researcher ensured that the participants interpreted validly formed multiple viewpoints by means of semi-structured and open-ended questions.

Reliability refers to the extent to which different researchers arrive at the same outcome when the results of a study are reproduced using similar methodologies. Reliability is, therefore, the extent to which results are consistent with the researcher's style, data recording, data analysis and data interpretation (Joppe, 2000:1). Reliability for this study was achieved by the relationship between the researcher and the sample group, established by clearly identifying the study, the role of the researcher and the role of the sample group.

1.8. CLARIFICATION OF CONCEPTS

The following concepts were deemed to be necessary for the purpose of the study and will therefore be clarified:

1.8.1. Management

Kroon (2004:4) refers to general management as the task of leading, which is performed at all levels of management and that consists of the following:

- Four basic management functions, namely, planning, organising, activating and controlling.
- Six additional management functions, namely, decision-making, communication, motivation, coordination, delegation and disciplining.

The basic management functions are the most important steps in the management process and are performed consecutively during each activity.

1.8.2. Higher education

Higher education includes tertiary education as contemplated in Schedule 4 of the Constitution (Republic of South Africa, 1996:36). Importantly, higher education has been defined by the HE Act (1997b:5) as “*all learning programmes leading to qualifications higher than grade 12 or its equivalent in terms of the National Qualifications Framework (NQF),*” (South African Qualifications Authority, 1995:1) and is also contemplated in the South African Qualifications Authority Act, 1995 (Act 58 of 1995) (South African Qualifications Authority, 1995:1).

1.8.3. Higher education institution

The HE Act (1997b:5) refers to a higher education institution as:

any institution that provides higher education on a full-time, part-time or distance basis and which is-

- (a) established or deemed to be established as a public higher education institution under this Act;*
- (b) declared as a public higher education institution under this Act; or*
- (c) registered or conditionally registered as a private higher education institution under this Act* (Department of Education, 1997b:1).

1.8.4. Private higher education institution

According to the HE Act, a private higher education institution means: “any institution registered or conditionally registered as a private higher education institution in terms of Chapter 7 of the HE Act” (Department of Education, 1997b:1).

1.8.5. Regulatory

Oxford Dictionaries refers to the term “regulatory” as: “serving or intended to regulate something: the existing legal and regulatory framework” (Oxford Dictionaries, 2011).

1.9. ORGANISATION OF THE DISSERTATION

Chapter one described the general orientation of the research. The chapter dealt with the background of the study, the problem statement, the aim of the research, the motivation for the research, the research methods and design, clarification of concepts and organisation of the dissertation.

Chapter two contained a focussed literature study, a review of previous research and opinions and an interpretive summary of the current body of knowledge regarding the management of a private higher education institution in South Africa.

Chapter three included a focussed literature study, a review of previous research and opinions and an interpretive summary of the current body of knowledge regarding the current higher education regulatory environment in South Africa.

Chapter four provided an explanation of qualitative research and design, the sample population and participants, and research procedure. The chapter concluded with the data collection strategy.

Chapter five dealt with a clarification of data analysis, based on the results of the individual interviews using a qualitative method. The individual interviews were then analysed and the data presented.

Chapter six contained a summary and conclusion of the results. The limitations of the study were discussed and recommendations for the future were mentioned.

The references used during the study and supporting appendices, such as an example of a participant's consent form and a transcription of an individual interview, make up the final section of the dissertation.

1.10. SUMMARY

Government's rationale of change and development of higher education in South Africa was contextualised by Fehnel in a Centre for Higher Education Transformation (2002:235) as follows:

Government on the one hand seeks to shape the responses of institutions in ways that reflect governmental values and priorities. Institutions on the other hand seek to maximise opportunities to assure their future, whether by becoming public institutions (as all original private institutions did in the early part of the century) or becoming entrepreneurial and responding to the marketplace (as some of the public and private institutions did in the final years of the century). The market is constantly changing, requiring new responses to both government and institutions, often more quickly than policy and structural mechanisms permit.

Worldwide, economical, social and political developments were identified as influential in the provision of higher education. This was also the case in South Africa pre- and posts the 1994 democratic elections. This could clearly be seen in the way the government shaped the higher education landscape by means of regulations to ensure that institutions reflect governmental values and priorities. However, the regulatory framework for the governance and management of institutions does not prevent the possibility of over-regulation or interference, as the HE Act and its amendments are silent on the autonomy and independence of institutions. Therefore, the government is expected to be guided by the very legislation that it has promulgated, as well as the institutional statutes that have been approved by the Ministry and presented to the Parliament (Council on Higher Education, 2006e:2). For that reason, the impact of the regulatory context on private higher education providers needs to be determined, especially in view of Charles Handy's comment: "One size does not fit all, particularly with education. The more we try to homogenise, the more we really need to differentiate" (Saidwhat, 2011).

CHAPTER TWO: MANAGING PRIVATE HIGHER EDUCATION INSTITUTIONS WITHIN THE CONSTRAINTS OF A PARTICULAR LEGISLATIVE AND REGULATORY FRAMEWORK

The institutional manager is required to manage and create some degree of balance among the seemingly never-ending stakeholder demands (Brunyee, 2001:8).

2.1 INTRODUCTION

All the stakeholders in the higher education system agreed that higher education must be re-planned, governed and funded as a single national coordinated system (Department of Education, 1997a:17). Chapter 4 of the Higher Education Act No 101 of 1997 (hereafter referred to as the HE Act) (Department of Education, 1997b) stipulates governance structures for public higher education institutions (Department of Education, 1997b:22-32). Although the HE Act (Department of Education, 1997b) is silent on similar structures at private higher education institutions, such institutions are, nevertheless, governed as a part of a single higher education system and subject to accreditation and auditing processes equivalent to those at public higher education institutions (Department of Education, 1997b:34-36). This is furthermore complicated by the fact that most private higher education institutions also offer a significant number of Further Education and Training (FET) programmes and are therefore also subject to the stipulations of the Further Education and Training Act 98 of 1998 (Department of Education, 1998) and the designated quality assurance bodies (Department of Education, 1998b:A879-A887). It is therefore in the interest of private institutions to make provision for structures similar to those of public institutions but also customised to meet the different governance and management structures of the private higher education institutions and to take into consideration the needs of both sectors (Bernasconi, 2003:19). The stipulated governance structures as prescribed by the different acts are, fortunately, similar.

Whereas the governance structures as stipulated by the different Acts take responsibility for the total management of the institutions, the significant difference between such structures and those at private institutions lies in the fact that academic management can be separated out from the business management, provided that the necessary synergies be maintained to protect the integrity of both the academic and the business processes. Therefore, the private higher education institutions attempt to create and structure an academic council for a private institution in such a way that it meets the needs of both the institution and the governance structures as set out by the appropriate acts (PwC e-Learning Network, 2009). Regarding the constitution of an academic governance structure, the assumption is made that the following bodies or their equivalents are in place at the institution and are seen as the bare minimum in order to manage the academic integrity of the institution. Such bodies are *inter alia*:

- A management committee.
- An academic board (equivalent in structure and function to a senate at a public institution).
- Faculty boards or similar bodies representative of the academic staff of a particular programme grouping should a faculty structure not exist.
- An academic staff representative committee.
- An administrative and academic support staff representative committee.
- A student representative council (Department of Education, 1997b:22-23).

The nature and scope of the institution should be such that its students and staff numbers justify these bodies. In order to bring the total governance structure in line with the regulatory and statutory environment, an institution needs to establish an academic council. The activities of such a council would be to replicate functions commensurate with those of the council of a public higher education- or further education and training institution inasmuch as such functions are appropriate to the academic management of a private institution (Educor Council, 2005).

Through its dedicated institutional manager, the management committee, controls, manages and administers the day-to-day aspects of the private higher education institution, takes decisions subject to policy and other decisions taken by the academic council. In addition, it takes all decisions in the interest of the private higher education institution, provided that it immediately informs the chairperson of the academic council (University of Western Cape, 2008). Every private higher education institutional manager knows that the management process includes the need for sufficient finance, quality learning, public understanding and –acceptance in addition to managing the influences of government-induced policies and legislation (University of the Free State, 2005:3; Eurydice European Unit, 2008:25). Since 1994, government policies and legislation laid down the regulatory framework, which institutional managers of private higher education institutions had to accommodate in the management process.

The regulatory framework includes *inter alia* chapter 2 of the *Constitution of the Republic of South Africa Act 108 of 1996* (hereafter referred to as the Constitution) (Republic of South Africa, 1996). In Section 23(1)-(6) and Section 29(3) (a)-(c), the Constitution (Republic of South Africa 1996) gives every citizen the democratic right to establish and maintain a private institution at its own expense, not excluding the provision of government subsidies. The provision is that the institution does not discriminate on the basis of race, that it practises fair labour practices, is registered with the applicable government bodies and maintains standards that are not inferior to standards at comparable public educational institutions (Republic of South Africa, 1996:6-9). In paragraphs 2.55 and 2.56 of the *Education White Paper 3 – A programme for higher education transformation* (hereafter referred to as the White Paper) (Department of Education, 1997a), the government acknowledges the indispensable role of private higher education in the higher education sector, but advocates a regulatory framework to regulate private higher education without suffocating private higher education institutions through over–regulation (Department of Education, 1997a:26).

The Department of Education (DoE) regulates the provision of private higher education by means of the following legislation (Department of Education, 2004a:1):

- *Higher Education Act 101 of 1997* (Department of Education, 1997b).
- *Higher Education Amendment Acts: 55 of 1999; 54 of 2000; 23 of 2001; 63 of 2002; 38 of 2003 and 39 of 2008;* (Department of Education, 1999, 2000, 2001b, 2002b, 2003c, 2008b).
- *Higher Education Act 1997: Regulations for the Registration of Private Higher Education Institutions* (hereafter referred as the Regulations) (Department of Education 2002a).
- *Policy for Minimum Admission Requirements for Higher Certificates, Diplomas and Bachelor's Degrees Programmes* (Admission Requirements) (Department of Education 2005).
- *Higher Education Qualifications Framework* (HEQF) (Department of Education 2007).
- *National Qualifications Framework Act No. 67 of 2008* (NQF Act 2008) (Department of Education 2009a).
- *Minimum Admission Requirements for Higher Certificate, Diploma and Bachelor's Degree Programmes requiring a National Certificate (Vocational) at Level 4 of the National Qualifications Framework* (Department of Education, 2009b), (Council on Higher Education, 2006a:2; Department of Education, 2007:3; Department of Education, 2009a:2; Department of Education, 2009b:1).

The HE Act (Department of Education, 1997b) assigned the responsibility of quality assurance of the higher education sector in South Africa to the Council on Higher Education (CHE), which discharged this function through its permanent sub-committee, the Higher Education Quality Committee (HEQC) (Council on Higher Education, 2004b:1). Section 5(1)(i)-(iii) of the HE Act (Department of Education 1997b) describes the higher education quality assurance function as the promotion of quality assurance, the auditing of quality assurance mechanisms and the accreditation of programmes

(Department of Education, 1997b:11-12). A private higher education institution is eligible to provide higher education if it can provide proof of institutional registration with the DoE, programme registration on the National Qualifications Framework (NQF) by the South African Qualifications Authority (SAQA and fulfilment of the higher education quality assurance function through institutional and programme accreditation (Council on Higher Education, 2003b:1; Department of Education, 2004a:1-2; Department of Education, 2008a:5).

2.2 REGISTRATION WITH THE DEPARTMENT OF EDUCATION

In order to register the institution with the DoE, the private higher education institution has to prove fulfilment with the conditions stipulated in, *inter alia*, Chapter 7, Sections 50-64 of the HE Act (Department of Education, 1997b) and Chapter 3 of the Regulations (Department of Education, 2002a) Department of Education, 2008a:5). An extension to the conditions mentioned in section 2.1 are the additional conditions in section 53(1)(a)-(b) of the HE Act (Department of Education, 1997b). The private higher education institution has to provide proof of the institution's capability to fulfil its financial obligations to prospective students and its commitment to comply with the criteria of the HEQC, as accredited by SAQA in terms of the South African Qualifications Authority Act 58 of 1995 (South African Qualifications Authority, 1995) (Department of Education, 1997b:34-40; Department of Education, 2008b:6). Sections 2, 9, 12(2) and 15 of the Regulations (Department of Education, 2002a) elaborate on the registration conditions in terms of the HE Act (Department of Education, 1997b) by requiring the institution to register and trade as a juristic person or an external company in terms of the Companies Act 61 of 1973 (hereafter referred to as the Companies Act) (Department of Trade and Industry, 1973), to comply with the health and safety regulations of the Department of Labour (DoL) and to comply with periodical evaluations of the institution by the DoE (Department of Education, 2002a:6-11; Department of Education, 2008a:5). The fulfilment of conditions imposed by the regulatory framework on the institution presents a challenge to

the institution in that its managers must have the capacity to manage the impact of the regulatory framework through the management process.

2.3 THE MANAGEMENT PROCESS

The management process was defined in section 1.8.1 as the planning, organising, leading and controlling of the resources of an institution to achieve the institutional goals as profitable as possible within the specific objectives of the institution's mission statement (Smit & Cronjé, 2004:5-10; Hofstrand, 2006:2). The management process is complicated by the compliance conditions indicated in section 2.2 and sections 2(1)(a)-(b) and 9 of the Regulations (Department of Education 2002a). According to these conditions, an institution's juristic person must be registered as a proprietary limited company (Pty) Ltd of which the primary mission is profit earning (Department of Education, 2002a:6-9; SwiftReg Company Registration, 2008).

The content of the mission statement for an educational institution is prescribed in the criteria as found in the following government documents:

- *Criteria and guidelines for providers* (South African Qualifications Authority, 2001).
- Criterion 1 of the *Criteria for programme accreditation* (Programme Accreditation Criteria) (Council on Higher Education, 2004c)
- Criterion 1 of the *Criteria for institutional audits 2004* and the *HEQC institutional audits manual 2007* (Audit Criteria) (Council on Higher Education; 2004b, Council on Higher Education, 2007b).

These criteria direct the institution's mission statement regarding the stipulation of its purpose, goals and priorities in terms of how the institution would meet international, national, sectoral, local and student requirements, provide for transformational issues within the context of an accessible and affordable, cost-effective quality system. The mission statement should further provide for effective strategies, sufficient human resources, financial resources

and infrastructural resources for delivering and assessing of the institution's learning programmes (South African Qualifications Authority, 2001:22; Council on Higher Education, 2004b:6; Council on Higher Education, 2004c:7; Council on Higher Education, 2007b:12). However, these government documents do not suggest a direction or alignment towards achieving the for-profit and business-orientated approach of a proprietary limited company. Thus, a private higher education institution focusses on education as an industry, students as career-oriented consumers and a corporate rather than an academic organisational structure (Newton, 2002:15).

Considering the above, managing the tension between the business- and the academic voices of an institution places a strain on the private higher education institutional management as the prescribed mission statement (transformational-academically phrased) is not in harmony with the spirit of a for-profit orientated mission statement and does not intend to meet the same goals (Council on Higher Education, 2007a:30). In terms of the management structure as indicated in the introductory section to this chapter, the management of this tension is facilitated through the establishment of separate business- and academic management structures. Therefore, an institution provides educational services in the marketplace with the primary focus of making a profit for its operations but also with the aim of providing education in terms of the required standard as is expected (Council on Higher Education, 2006b:10; Educor Council, 2005). The management of a private higher education institution not only deals with the influences of the conditions of the regulatory framework but also has to manage the tension this creates within the management process of planning, organising, leading and controlling of the resources to achieve institutional goals, including healthy financial sustainability and good quality education. In this regard, figure 1.1 illustrates the normal flow of the management process (Smit & Cronjé, 2004:5-10).

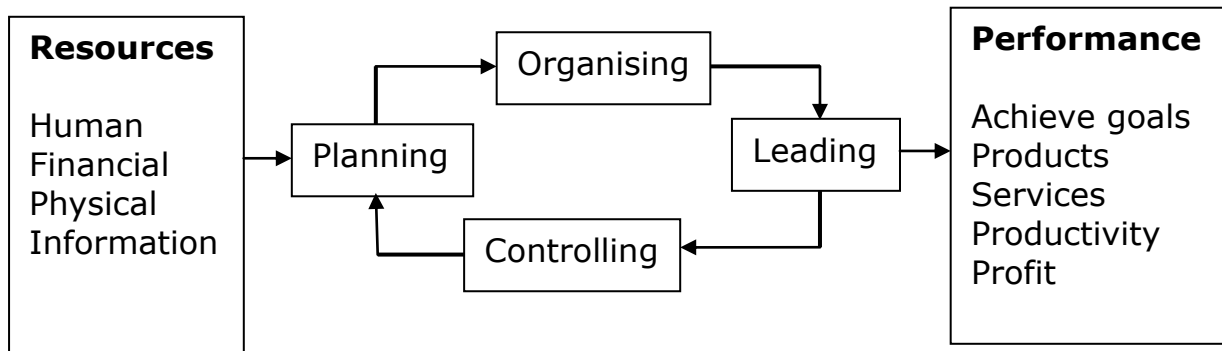


Figure 1.1 The management process of planning, organising, leading and controlling of the resources to achieve institutional goals.

Source: Adapted from Smit & Cronjé, 2004

The management process as depicted in figure 1.1, is generic and is generally applicable to organisations and businesses. Through planning, performance objectives and resource allocation and the actions necessary to accomplish these objectives, are identified. Simultaneously, the management of an organisation also identifies difficult problems, which should be avoided, and positive responses to competition to be implemented (Free Online Research Papers, 2009). Subsequently, all the resources allocated during the planning function are organised to ensure the implementation of the actions and activities as planned, in order to achieve the set performance objectives (Pakhare, 2007). Management leads the organisation through the monitoring of performance standards and channel employees' behaviour, through the processes of motivation, communication and compensation to ensure that the performance objectives of the organisation are achieved (Bates, Botha, Botha, De Vries, De Vries, Goodman & Ladzani, 2005:335). Controlling is the sum total of all the processes by means of which management ensures that all the plans and activities are executed and implemented according to the original planning and allocation of resources. Depending on the outcome of the controlling process, management decides whether some corrective, preventive and remedial measures should be taken to streamline the achievement of the set performance objectives (Gandhi, 2009).

This management process is also applicable to private higher education institutions as its foundation is based on an organisational structure, as indicated above. Management, through the management process of planning, organising, leading and controlling, aims to meet its performance objectives as an effective educational process. It also aims to improve the quality of the learning environment through the allocation, leading and controlling of the resources to manage the educational process and to improve the quality of the learning environment (Daigneau, 2005:13). However, private higher education institutions are constrained by the regulatory environment within which the institution in question has to function (see section 2.1). These constraints are manifested especially in the resource and performance elements of the process, as indicated in figure 1.1. The impact of these constraints on resources and performance has a direct influence on the managerial process of planning, organising, leading and controlling and are discussed in detail in sections 2.3.1 - 2.3.2.

2.3.1 Managing resources

As mentioned in section 2.3, the nature of the management process of an institution is prescribed by means of its mission statement (determined by the regulatory framework), which means that the process of managing and resource allocation necessary to the achievement of the institution's goals, is different from that in other sectors. In figure 1.1, certain elements of resources and performance were indicated as components of a generic management process of planning, organising, leading and controlling to achieve institutional goals. Table 1.1 below illustrates how the allocation of resources differs according to the nature of various institutions. The table compares different institutions in terms of their resource allocation. The areas highlighted are typically those characteristic of a private higher education institution.

Table 1.1 Illustrates different resources allocated together in different institutions (own highlighting).

Institutions	Human Resources (Staff)	Financial Resources (Money)	Physical Resources (Facilities)	Information Resources (Reports)
University of South Africa	Lecturers and administrative staff	State subsidies, contributions by private enterprises, student fees	Buildings, libraries, teaching and learning venues, IT infrastructure, video-conferencing equipment	Expertise in distance teaching, research reports, annual reports
Toyota South Africa	Managers, engineers, technicians, administrative staff, workers	Shareholders, loans, profits	Assembly plants, equipment, computers	Data on the market, environmental information, statistics, skills in car manufacturing
City Council of Tshwane	Engineers, jurists, town planners, technical and administrative staff, councillors	Municipal taxes, fines, fees	Buildings, power stations, waterworks, pipelines, vehicles	Statistics on urban population, annual reports, budgets, expertise in town management
Joe's Bicycle Shop	Owner manager, members of the family, labourer	Owner's equity, profits, loans	Counters, shelves, equipment	Knowledge of models, price lists

Source: Adapted from Griffen, 1999:8.

The highlighted areas in table 1.1 indicate that the resources characteristic of a private higher education institution have to be managed in a different fashion to those of a public institution of higher education as it encompasses different business models, each of which has its own management structure and regulatory constraints which are not necessarily characteristic of higher education. The regulatory constraints of a private higher education institution are predominantly evident at the level of human resources and institutional performance, due to the duality inherent in the fact that it is both a business and an educational institution.

2.3.1.1 Human resources

The management of human resources is subject to the regulations of the DoL, (Council on Higher Education, 2004c:3). Section 23 of the Constitution (Republic of South Africa, 1996) laid the foundation for human resource regulations in South Africa (Republic of South Africa, 1996:6). The DoL refers to section 23(1) of the Constitution (Republic of South Africa, 1996) in order to construct a regulatory framework for fair labour practices, which all employers are obliged to meet. This regulatory framework intends to allow the country to meet its need for highly skilled workers (Republic of South Africa, 1996:6). The DoL's regulatory framework makes provision for higher education being subject to the guidance of the DoL as well as the DoE (Department of Labour, 1997:2; Gravett & Geysler, 2004:17-18).

The DoL regulatory framework consists *inter alia* of:

- The *Occupational Health and Safety Act 181 of 1993* (OH&SA), (Department of Labour, 1993).
- The *Labour Relations Act 66 of 1995* (LRA), (Department of Labour, 1995).
- The *Basic Conditions of Employment Act 75 of 1997* (BCEA), (Department of Labour, 1997).
- The *Skills Development Act 97 of 1998* (SDA), (Department of Labour, 1998).

- The *Skills Development Levy Act 9 of 1999* (SDLA), (Department of Labour, 1999), (Department of Labour, 2008).

The DoL's regulatory framework expects the management of a private higher education to promote the skills development of its staff by providing training and development programmes listed in its Workplace Skills Plan (WSP) and Workplace Skills Report (WSR) while paying levies against its payroll to the Sector Education and Training Authority (SETA), with which the institution is annually registered (Gravett & Geyser, 2004:17-18). Conditions in sections 12(2)(a), 23(h)(i)(iv) and 29(1)(iii) of the Regulations (Department of Education 2002a) embrace the DoL's regulatory framework and taper the conditions of human resources recruitment, employment and management by obliging the private higher education institutional management to declare its commitment formally to maintain the necessary academic, administrative and support staff, with appropriate academic and/or professional qualifications and experience to meet and sustain the objectives of each programme. Consequently, any noteworthy reduction in human resources or sharing of human resources between institutions must immediately be documented, certified and reported formally to the DoE (Department of Education, 2002:9-18a).

The HEQC, through its quality assurance function as indicated in section 2.1 emphasises these conditions through criteria 3, 4, 6, 7 and 8 of the Programme Accreditation Criteria (Council on Higher Education, 2004c) and criteria 3, 4 and 9 of the Audit Criteria (Council on Higher Education, 2004b, Council on Higher Education, 2007b). In these documents the HEQC requires staff policies, -procedures and -strategies describing the following components within the stipulations of the DoL's regulatory framework:

- Clear recruitment.
- Selection.
- Appointments.
- Development and support.

Along these lines, the selection procedure indicates *inter alia* that academic staff members, such as lecturers and internal and external moderators, meet the redress and equity requirements of the DoL and the management profiles of the institution. Selection procedures should furthermore determine the size and seniority of staff through having recognised qualifications that is one level higher than the exit level of the programme but with the minimum of a degree and have a minimum of two years' experience of teaching and learning, assessment and research on the exit level of the relevant programme to be lectured and/or moderated (Council on Higher Education, 2004b:8, 12-13; Council on Higher Education, 2007b:14 & 18; Council on Higher Education, 2004c:10-11). The HEQC furthermore expects the institution to have an acceptable student to staff ratio. On the other hand, the HEQC is silent regarding the qualifications and experience criteria for administrative and support staff members and only requires them to be suitably qualified to support the successful delivery of the relevant programmes and to be equipped to manage the programme information system in terms of *inter alia*:

- Registering students.
- Dispatching applicable documentation.
- Recording student performance.
- Identifying at risk students.
- Certifying students who have completed the qualification successfully and dealing with the needs of a diverse student population (Council on Higher Education, 2004c:9-10, 13-14; Council on Higher Education, 2004b:9-10; Council on Higher Education, 2007b:9-10, 13-14).

After selection, the staff member appointed must have a service contract and clear guidelines in terms of responsibilities. The development strategies focus on providing staff members with the opportunity for professional development by:

- Encouraging academic staff members to conduct research in their subject areas.

- Building capacity through frequent reviews of the staff in relation to programme needs, including IT and library resources.
- Professional growth and development.
- Maintaining an acceptable ratio of full-time to part-time staff (Council on Higher Education, 2004c:9-13; Council on Higher Education, 2004b:8-9, 12-13; Council on Higher Education, 2007b:14-15, 18).

Part-time staff members are recruited, selected and employed within the same regulatory framework as full-time staff members. Employing part-time staff members helps to manage the allocation of financial resources by accommodating the fluctuating human resource demands and to ensure that working conditions are conducive to teaching and learning and research with an appropriate full-time part time ratio (Jack & Dawn, 2003:39; Council on Higher Education, 2004c:11; Council on Higher Education, 2006a:20).

Ensuring that working conditions are conducive to teaching and learning and research within a staff member's understanding and experience of the programme accreditation criteria (Council on Higher Education, 2004c) and audit criteria (Council on Higher Education, 2004b; Council on Higher Education, 2007b) increases the tension within the institution that the private higher education institutional management has to manage. This is not the only contributor to the inherent tensions in the management of a private higher education institution.

According to an evaluation study conducted by the CHE (Council on Higher Education, 2007a:9-27), the similarities and differences between the terms and processes used by the CHE/HEQC, Sector Education and Training Authorities (SETAs) and SAQA for the same actions and activities, add to duplication of required processes and their associated documents, thereby increasing the workload and costs linked to these processes. An example is the assessing of the outcomes of a unit standard-based programme, which is done by a SETA-trained and registered assessor, on an Assessor's Unit Standard. On the other hand, in a higher education programme, this function is carried out

by an examiner with the applicable qualification as explained above and appointed by the private higher education institution as an assessor in terms of the criteria prescribed by the HEQC accreditation and audit criteria (Council on Higher Education, 2004b:8, 12-13; Council on Higher Education, 2007b:14 & 18; Council on Higher Education, 2004c:10-11). In most cases where private higher education institutions are also registered FET providers, the same staff members have to fulfil both functions with their associated, distinctly different documentation as prescribed by the appropriate SETA. Furthermore, the SETAs act as external moderators in terms of ensuring that assessments have been conducted in line with the agreed practices, are fair, reliable and valid; whereas external examiners for higher education programmes are appointed by the private higher education institution (SERVICE SETA, 2009; Council on Higher Education, 2004c:12). The CHE research (Council on Higher Education, 2007a:9-27) indicates that staff members experience these processes as a form of policing or oversight that limits academic autonomy and are of the opinion that the criteria impinge on the uniqueness of the institution with a particular emphasis on creative and practical skills. In addition, the research staff state that staff members feel that the HEQC evaluation team does not engage with submitted documentation efficiently, resulting in continuous requests for resubmission of information (Council on Higher Education, 2007a:9-27). The link between the quality and availability of suitable staff members that meet the criteria of the CHE and the institution, as well as the impact of these conditions on the institution and the private higher education institutional management, result in additional costs, including increasing demands on the financial resources of the institution.

2.3.1.2 Financial resources

As mentioned in section 2.2, an institution needs to register as a Pty (Ltd) company under the Companies Act (Department of Trade and Industry, 1973). For this reason, the institution is subject to the regulatory framework provided by the Companies Act (Department of Trade and Industry, 1973), including the South African Revenue Services Act 34 of 1997 (Department of Trade and

Industry, 1997). The institution is also subject to the HE Act (Department of Education, 1997b) and the Regulations (Department of Education, 2002a). Section 2.2 also indicates that the private higher education institutional management has to provide proof that the institution is financially capable of meeting its obligations to prospective students. The DoE's conditions through Section 57 of the HE Act (Department of Education 1997b), Sections 13, 29(1)(i)-(ii) and 29(1)(iii) of the Regulations (Department of Education 2002a) and by reinforcement of the Companies Act (Department of Trade and Industry 1973) stipulations, require the proof to be in the form of compliance with general accepted accounting practice principles and procedures by keeping books and records of income; expenditure; assets; liabilities, income statements, expenditure statements and balance sheets (Department of Education, 1997b:38). To ensure the legitimacy of the financial statements, they are annually audited and accompanied by certified copies of the auditor's report, according to generally accepted auditing standards and submitted to the DoE together with an established financial surety or financial guarantee no later than 30 April of each year (Department of Education, 2002a:10-21). If the private higher education institutional management does not adhere to these conditions and does not submit the financial documents or if the registrar is not satisfied with the status of the financial documents, the DoE may deregister the institution, restricting the institution from providing higher education (Department of Education, 2008a:7). Consequently, the private higher education institutional management is obligated to inform the DoE of any noteworthy reduction in the financial and or physical resources needed to sustain a programme even if the registrar has accepted the required financial documents (Department of Education, 2002a:10-18).

The HEQC through its quality assurance function as indicated in section 2.1 emphasises these conditions through Criterion 7 of the Programme Accreditation Criteria (Council on Higher Education 2004c) and Criterion 2 of the Audit Criteria (Council on Higher Education 2004b; Council on Higher Education 2007b) by requiring the institution to provide and budget for adequate resource allocation in terms of human resources development and

implementation, and the review, renewal and expansion of physical resources (Council on Higher Education, 2004c:12-13; Council on Higher Education, 2004b:6-7; Council on Higher Education, 2007b:12-13). Bearing in mind the institution depends entirely on student fees, external support and venture capital for funding and is not subsidised by the government as indicated in section 2.1, the private higher education institutional management has to manage the allocation of resources carefully including Physical Resources (Chilundo & Berverwijk, 2001:4).

2.3.1.3 Physical resources

Physical resources, such as teaching and learning venues, buildings and libraries, form part of the teaching and learning experience, which include health and safety issues. Such physical resources are financial assets in terms of financial resources. For that reason, the institution is subject to the regulatory framework set by, *inter alia*, the DoL regulations (health and safety) as outlined in section 2.3.1.1, Department of Trade and Industry regulations (financial resources) as outlined in section 2.3.1.2 and the regulations (teaching and learning) (Department of Education, 2002a).

Within this context, the conditions in sections 12(2),(3)(c),(d), 23(i),(iii) and 29(1)(iii) of the regulations emphasise the importance of the teaching and learning experience in terms of sufficient space, equipment and instructional material to provide education and training to achieve the objectives of the programmes. Consequently, the private higher education institutional management is obligated to inform the DoE of the loss of any physical and supporting resources or change in the site of delivery that will influence the *status quo* necessary for the proper conduct of a programme (Department of Education, 2002a:10-21).

The HEQC through its quality assurance function as indicated in section 2.1 emphasises these conditions through criterion 7 of the Programme Accreditation Criteria (Council on Higher Education, 2004c) and criterion 4 of

the Audit Criteria (Council on Higher Education, 2004b; Council on Higher Education, 2007b), by requiring clear policies and procedures regarding the management, maintenance, renewal and expansion of library and IT resources in terms of support and access to on- and off-site staff and students. Along these lines, the policies and procedures indicate, *inter alia*, the management and maintenance procedures to ensure the availability of the following elements for each programme at all official sites of delivery to all staff members and students:

- Suitable and sufficient teaching and learning venues.
- Suitable and sufficient laboratories.
- Suitable and sufficient IT infrastructure.
- Suitable and sufficient library resources (Council on Higher Education, 2004c:10-11; Council on Higher Education, 2004b:10-11; Council on Higher Education, 2007b:14-15; Council on Higher Education, 2006a:20).

The policies and procedures elaborate on the appropriate IT infrastructure, in terms of the following that are complementary to the nature of the programmes and support the curriculum programme:

- Functional and appropriate hardware, software and databases.
- Library and learning resources material (Council on Higher Education, 2004c:10-11; Council on Higher Education, 2004b:10-11; Council on Higher Education, 2007b:14-15; Council on Higher Education, 2006a:20).

Meeting these criteria is problematic as the criteria do not specify “sufficiency in terms of library resources” and do not consider aspects influencing the usage of library resources. These aspects *inter alia* are the globalisation of access to information and the fact that the internet has democratised access to knowledge and thus, an institution has become devalued in the process as a repository of knowledge via the library (Kotecha, 2006:28). In practice, books are rarely used because most searches are done using an internet search engine such as Google, to keep abreast of new knowledge (Sayed, 2008).

Students prefer using modern information communication technology (ICT) such as the internet to actual library resources because of their exposure to ICT information selection, gathering, sorting and analysing, in the general and further education and training bands (Department of Education, 2003b:3; Department of Education, 2004b:6; De Villiers, 2007:34).

Regarding human resources, staff members within an academic environment also prefer using modern information communication technology (ICT) to assist them in their search for information, as well as with the gathering, sharing and submitting of information through effective communication, with their peers (internal and external) (Council on Higher Education, 2006b:8). To complicate the matter even further, programme accreditation and -registration are done by means of the HEQC online programme accreditation application system and the SAQA online programme registration application system (Council on Higher Education, 2008d; South African Qualifications Authority, 2008b). Notwithstanding this *status quo*, the expectation of archaic library usage is maintained as a prerequisite to accreditation. Undoubtedly, the use of modern ICT is a valuable asset for the private higher education institutional management as it assists the private higher education institutional management to allocate the necessary information resources for the gathering of the applicable reports to manage the institution, meet the criteria of the CHE and stay in touch with the ever-changing higher education landscape.

2.3.1.4 Information resources

The information resources required by the CHE take the form of prescribed quality assurance evidence reports pertaining to the different submission processes of the CHE. These quality assurance evidence reports are based on quality assurance arrangements and the self-evaluation reports conducted by the institution. The CHE developed a range of documents to guide the private higher education institutional management with the preparation of these reports. The documents include *inter alia*:

- *Criteria of programme accreditation* (Council on Higher Education, 2004c).
- *Criteria for institutional audits* (Council on Higher Education, 2004b).
- *HEQC institutional audit manual* (Council on Higher Education, 2007b).
- *Improving teaching and learning resources* (Council on Higher Education, 2004e).
- *Audit portfolio* (Council on Higher Education, 2004d).
- *Site visit preparation manual for institutions* (Council on Higher Education, 2008b) and the *Guidelines on writing improvement plans* (Council on Higher Education, 2008c) (Council on Higher Education, 2008b; Council on Higher Education, 2008c; Council on Higher Education, 2004d:1).

These reports, together with the other reports mentioned in sections 2.3.1.1 – 2.3.1.3, form part of the DoE's information resources and processes as indicated in sections 13 and 44 of the *National education information policy* (Department of Education, 2004b). The information resources provided ensure that the Minister of Education can monitor and evaluate the standards of education provision, delivery and performance (Department of Education, 2004b:11-18). The DoE's information resources gathering and implementation processes include a range of documents such as the:

- *Application for registration as a private higher education institution - Form APX-01* (Department of Education, 2003a).
- *Application for amendment (Form APX-02)* (Department of Education, 2003a).
- *Application for conversion (Form APX-03)* (Department of Education, 2003a).
- *Annual reporting form (Form APX-04)* (Department of Education, 2003a).
- National learner record database (NLRD), (South African Qualifications Authority, 2007a:5), administrated by SAQA, which holds records of individual students and their achievements (Department of Education, 2008a).

These records of individual student achievements, together with all the other information resources, not only assist the DoE in determining the institution's educational performance and progress in terms of the government's goals but also aid the private higher education institutional management in ascertaining whether the institution's performance is achieving its goals.

2.3.2 Performance

By measuring the institution's performance, the private higher education institutional management benchmarks the institution against other higher education institutions focussing on globalisation, new communication and information technology and marketisation by using the information gathered through the information resources. The information resources provide the private higher education institutional management with information on, *inter alia*, the most effective marketing strategies, sales tactics to create revenue, best pricing models, student throughput rates and the output of the academic staff (Nelson & Kelly, 2005:1; Poole, 2005:3). As indicated in section 2.3.1.4, the performance of the institution is also measured by the DoE. By measuring the performance of the institution, the DoE, through its information resource processes, creates appropriate policies to ensure that the institution's mission links with its performance and that the student experiences a positive teaching and learning experience (Higher Education Funding Council for England, 2008:2). Institutional performance is thus measured directly against national goals that are incorporated in the institutional goals in terms of the prescribed mission statement indicated in section 2.3 (Centre for Higher Education Transformation, 2007:2).

2.3.2.1 Achieving goals

Achieving institutional goals is a dual function. On the one hand the private higher education institutional management assists in meeting the national goals, as explained in sections 2.3 and 2.3.2, by transporting human talent and potential that are equivalent to global standards to contribute to the

social-economic growth of the country and on the other hand by earning profit to ensure financial sustainability as explained in sections 2.3 and 2.3.1.2 (Department of Education, 1997a:10; Council on Higher Education, 2007c:5). As a relationship exists between economic growth and the participation rate in higher education, the private higher education institutional management has to accommodate the government's goal of the massification of the higher education system by increasing the participation rate through achieving its institutional goals (Department of Education, 2001a:18-19). To achieve the institutional goals, the private higher education institutional management focusses on filling the gaps in the higher education sector by providing a cost effective and international product within a flexible management structure (Australian Council for Private Education and Training, 2004:3-5).

2.3.2.2 Products

With higher education being commoditised the way people work and consume changed leading the product having to change accordingly (Department of Education, 1997a:10). In the case of higher education, the product is a learning programme and/or short learning programme that is delivered as a learning experience, which is assessed to ensure that the student achieves the aim of the programme. Because of the vital role that the programme plays in achieving the government's goals through the link with the private higher education institution's mission as indicated in section 2.3, the HE Act (Department of Education, 1997b) by means of section 3(1) – (2)(a) and (b) tasks the Minister of Education with the responsibility to determine the policy on higher education (Department of Education, 1997b:10).

The following higher education policies form the parameters and criteria for the programme development procedure within which internal and external stakeholders have to apply their expertise:

- The Higher Education Qualifications Framework (HEQF), (Department of Education, 2007).

- The Policy for Minimum Admission Requirements for Higher Certificates, Diplomas and Bachelor's Degrees Programmes (Minimum Admission to Higher Education), (Department of Education, 2005).
- Criteria 1 and 6 of the Programme Accreditation Criteria (Council on Higher Education, 2004c).
- Criteria 1, 5, 7, 8 and 10 of the Programme Audit Criteria (Council on Higher Education, 2004b; Council on Higher Education, 2007b) (Council on Higher Education, 2004c:8; Council on Higher Education, 2004a:6; Council on Higher Education, 2007b:12)

A curriculum that complies with the abovementioned parameters and criteria should have:

- Sufficient disciplinary content.
- Theoretical depth.
- A balance between theoretical, practical and experiential knowledge and skills.
- Coherency of modules regarding the following:
 - Content.
 - Level.
 - Credits.
 - Purpose.
 - Outcomes.
 - Competencies expected of students.
 - Rules of combination.
 - Relative weight and delivery against the HEQF level descriptors with complementary teaching and learning methods and applicable modes of delivery (Council on Higher Education, 2004c:7-8; Department of Education, 2007:10-11).

However, there are certain factors that impact on the curriculum choice. They are the quality of school leavers, massification of higher education and the constantly changing higher education regulatory framework. Widening access and addressing equity through massification is problematic where the primary gateway between school and higher education as well as the statutory minimum admission requirements to higher education is the National Senior Certificate (NSC), as school leavers are not fully equipped by the school curriculum to make the transition to higher education (Department of Education, 2005:6; Department of Education, 2007:14; Kotecha, 2006:22-23).

Emphasising the lack of learning assumed to be in place becomes clearer, when the declining number of school leavers with matric endorsement is compared over a certain period. In 2004, the number was 18.1% and by 2006, it had decreased to 16.2%, in contrast with the international norm of 31%. Further causes for concern are the fact that South Africa's grade 4 and 5 learners came last in an international study based on literacy and that the Joint Evaluation Trust found that 80% of grade 12 learners are numerically illiterate based on their final mathematical examination (Jammie, 2007:13-14; Oosthuizen, 2008:21). Accommodating these students increases the academic staff members' workload and it is required that these students' progress should be monitored closely to ensure that at risk students not meeting the assessment criteria linked to the outcomes of the programme are identified timeously.

Through identifying at risk students, the validity, reliability, fairness and transparency of the assessment practices, experiential learning and recognition of prior learning (RPL) are monitored through internal and external moderation processes which are stipulated in clear assessment policies and procedures for all modes of delivery. These policies and procedures also provide the students with information regarding access to the applicable documentation for the settling of disputes around assessment, the security and reliability of the result recording process, plagiarism and other unacceptable behaviour (Council on Higher Education, 2004c:12; Council on Higher Education, 2004b:9-13;

Council on Higher Education, 2007b:14-19). By adhering to the parameters and criteria of the programme development procedure, successful students will receive an accredited qualification recognised by the higher education sector, the labour market and society, both nationally and internationally. This will allow the student to articulate with other programmes or with other career pathways (Council on Higher Education, 2004c:8; Council on Higher Education, 2004a:6; Council on Higher Education, 2007b:12).

The outcomes of both the programme accreditation and institutional audit processes are placed in the public domain to inform the public about the state of quality arrangements inside the institutions. Being registered and accredited means that the institution provides viable quality products and services in the business of teaching and learning in higher education (Council on Higher Education, 2006a:11).

2.3.2.3 Service

Services in higher education have changed over the past two generations. The marketplace forces in higher education have changed students into consumers (Blaum, 2005:1). Students want a service experience where the institution pays as much attention to the relations as to the business during the service period (Williams, 2003:21-28). Students seek relevance, value and choice regarding an institution where the total higher education experience matters almost more than the teaching and learning experience. Students and their families demand a return on their substantial investment from state-of-the-art facilities to high-speed internet access and, as paying customers, students will take legal action against the institution if they feel the institution did not provide them with value for money (Potier, 2001:2).

In terms of value for money, the institution ensures that the successful student has market related skills and is an inquisitive thinker through its programmes and support services and against the most affordable costs (Kotecha, 2006:35). An added benefit to the student is being registered on the National

Learner Record Database (NLRD), which provides the student with a portal to track his achievements and through which the student is accessible to the labour market (Goosen, 2003:32). Value for money is only achievable by having quality assurance at the core of the institution. Quality assurance involves harsh scrutiny of the institution's input and output processes. The purpose of the scrutiny is to maintain acceptably high standards that lead to good practice, continuous improvement and rising productivity (Bundy, 2006:6).

2.3.2.4 Productivity

Rising productivity in terms of continuous improvement involves autonomy of the institution and academic freedom. However, the autonomy of the institution and academic freedom are hindered by the government's involvement in the affairs of higher education institutions (Kotecha, 2006:30). It is clear from the impact of the regulatory framework that the institution has been deprived of the following rights:

- Its institutional autonomy
- Academic freedom.
- Self-regulation.
- Administrative independence with respect to:
 - Student admissions.
 - Curriculum.
 - Methods of teaching and assessment.
 - Research.
 - Establishment of academic regulations.
- The internal management of resources generated from private and public sources, even though these are fundamental rights protected by the Constitution (Department of Education, 1997a:12-13).

However, the government's view is that it needs to intervene to ensure that higher education institutions are not involved in illegal activities and that they

are not disobedient to democratic change or government's predicted expectations, especially if an institution receives public funding (Pandor, 2004:2; Council on Higher Education, 2006c:21). The fact is private higher education institutions contribute to government revenue through the payment of all the relevant taxes and charges in the same way as any other private business as indicated in section 2.3.1.2, but deliver quality educational outcomes at no cost to the government (Australian Council for Private Education and Training, 2004:12). As higher education has become commoditised with students becoming customers that enjoy a choice between institutions and their products and service, as indicated in section 2.3.2.1-2.3.2.3, the market also regulates the institution. Students will only enrol with an institution that meets their needs, ensuring that only such institutions thrive and are profitable (Council on Higher Education, 2006c:17).

2.3.2.5 Profit

Institutions generate their funding from tuition delivered fees for services offered and are not subsidised. However, substantial regulatory fees have to be paid in order to achieve *inter alia* registration, accreditation, amendments and conversions (Australian Council for Private Education and Training, 2004:5). Prescribed regulatory fees of R500 per DoE registration and amendment submission are listed in sections 52 and 58(b) of the HE Act (Department of Education, 1997b), sections 3(3), 4(1) and 5 of the Regulations (Department of Education 2002a) and the Regulations for the registration of private higher education institutions' schedule of fees payable by private institutions on lodging an application for registration, an application for amendment and an application for conversion - (APX-05); (Department of Education 2003a); (Department of Education, 1997b:34- 38; Department of Education, 2002a:7-8; Department of Education, 2003a:2).

Section 7(5) of the HE Act (Department of Education, 1997b) also entitles the CHE to charge fees for any service rendered by the HEQC to any person, institution or organ of state (Department of Education, 1997b:12). However,

the CHE does not charge public higher education institutions for the service rendered. Private higher education institutions have to pay for all enforced regulatory services provided by the CHE and have to absorb regulatory fees such as:

- R4000 per programme accreditation submission.
- R1000 per application for every additional site of delivery.
- R5000 per new provider's application.
- R1000 per review of meeting conditions.
- R1000 per programme accreditation appeal and the direct costs of the quality assurance such as evaluators' fees, transport and site visits, amongst others (Council on Higher Education, 2008b:15).

These costs, together with the number of person hours required to meet the conditions of the regulatory framework, which are not always quantifiable, have a negative effect on the profit of the institution and do not change the perception that private higher education provision is still not equal to public provision by government institutions (Kruss, 2004:1).

2.4 SUMMARY

With higher education institutions constantly under scrutiny, and due to the fact that both public and private institutions are governed by the same Act, critics can no longer divide higher education into two opposing groups by manner of private higher education perceived as being of a lower standard compared to public institutions, especially with government's acknowledgement of the important role private institutions (Kruss, 2004:1). By the very nature of the institution, it has the ability to respond quickly to the demands of the market requirements, meet national goals and improve quality through competition between institutions at no cost to the government (McCowan, 2004:453). For the private higher education institutional management, operating in one of the most difficult management environments in the world and being affected by many variables such as the depreciation of

the rand, punitive labour laws, high crime levels, political indulgence of transformation, illegal foreigners and foreign investors' response to these variables, trust from the government's side in terms of the institution and its commitment to the national goals of the country is needed. Therefore, the government, through its overregulated framework should not attempt to fix something that is not broken (Smit & Cronjé, 2004:60-61; Council on Higher Education, 2007a:23).

Legislation and associated regulatory frameworks in the South African higher education context have their roots in the historical and political contexts of education provision. The government, as the main stakeholder in the setting of the regulatory framework for private higher education institutions, exercises its authority in its relation to the private higher education institutions and to the higher education system as a whole. In the process, recognition should be given to the feasible autonomy of the private higher education institutions and there should also be a commitment to consultation and negotiation of solutions to problems in the higher education environment (Olivier, 2001:1-14). The various acts and their amendments, as promulgated during the last decade, are indicative of the attempts made to regulate a new higher education landscape, both with changes in the public sector and with the growth of a private sector, new to the landscape. Legislation was developed to form a single higher education sector, governed with a single act of parliament.

CHAPTER THREE: THE CURRENT REGULATORY CONTEXT OF HIGHER EDUCATION IN SOUTH AFRICA

Government as a main role player should exercise its authority and its powers over the higher education system in a transparent, equitable and accountable manner and in a discernible pursuit of the public good. It should understand the social, cultural and economic needs and concerns of all potential (direct or indirect) beneficiaries of higher education, to be able to steer the system in a desirable direction. In its relation to institutions and to the system as a whole, there should be a recognition of the maximum degree of practicable autonomy and a commitment to consultation and negotiated solutions of problems (Olivier, 2001:5).

3.1 INTRODUCTION

The South African government has played a central role in shaping and moulding the higher education system in terms of its agenda throughout the history of South Africa by exercising its authority and power over the higher education system (Ng'ethe, Subotzky & Afeti, 2008:116-117). In order to gain a better understanding of the reasoning behind the shaping of the current higher education system, it is essential to contemplate briefly on South Africa's history regarding the role of the government concerning education, in particular, through its enactment characteristics (Seroto, 2004:59). However, literature on the history of South Africa's education system and the provision of education, especially in the early days, has been found to be vague and incoherent (Howes, 2004:5). For the purpose of this study, it is also necessary to focus on the main acts that have influenced the current status of education. These acts are discussed in terms of their respective origins in different countries.

3.1.1 The Republic of the United Netherlands (the Netherlands)

The Republic of the United Netherlands (the Netherlands), by means of the Dutch East India Company (DEIC), founded the Cape (South Africa) in 1652 and set-up a station at Table Bay (Cape Town) to supply provisions for passing ships *en route* to India (Sehoole, 2007:971). South Africa's first formal school was established by the DEIC in 1658 and the provision of education intended for the slave children was shaped by the Netherland's education system and was based on the Dutch Reformed Church religion and the Dutch language was used in this school (Sehoole, 2006:4; South African History Online, 2009). By 1663, the first formal school for the European colonists was established and was conducted by a Dutch Reformed Church official (Saunders & Southey, 2001:66). The government showed the first sign of its enactment characteristics in 1682 in its issuing of a DEIC decree that made it compulsory for all slave children under 12 to attend school (South African History Online, 2009).

The government's enactment characteristics gained momentum under the governance of Governor de Chavonnes who issued the first educational ordinance, *the Ordonnantie van de School Ordenning* in 1714, which legislated school management. Following the establishment of a government high school, the teaching of Dutch and Latin ensued (De Montmorency, 2008:149). *The Ordonnantie van de School Ordenning* developed into law and made it illegal for a person to be employed as a teacher without the approval of the governor and the Council of Policy, which represented the highest authority of the DEIC at the time in the Cape. This resulted in the establishment of the *Committee of Scholarchs* in 1779 that regulated the duties of the teachers and the management of the schools (South African History Online, 2009; De Montmorency, 2008:149). Accordingly, the Cape's first formal education system was established and coordinated by the Dutch Reformed Church, which functioned as a state department and was governed and controlled by the Netherlands' government (Nieder-Heitmann, 2003:1). However, after the French revolution, the Netherlands was conquered in 1795 by the newly

founded Republic of France. Subsequently, the Netherlands became a vassal state of France and was known as the Batavian Republic.

3.1.2 Batavian Republic Government

After the French conquest, Prince William of Orange of the Netherlands, because of its alliance with England, requested the British government to govern the Dutch colonies to prevent the French from taking possession of the Dutch colonies (Gin, 2004:937). Most of the Dutch education systems were kept in place by the British government, including the use of the Dutch language, but the British government started with the implementation of an Anglicisation policy (Broeder, Extra & Maartens, 2004:26). In 1802, Britain and France signed The Treaty of Amiens which stipulated that Britain should return the Cape to the Batavian Republic, which resulted in the Cape falling under the governance of the Batavian Republic in 1803 (Beck, 2000:42-49).

Influenced by the French revolution, the Batavian Republic reformed its education system; accordingly, it adopted a secular system of national education both in the Netherlands and in the Cape. Subsequently, an Education College (*Tot Nut van't Algemeen*), which later became the South African College, was established as a branch of the *Tot Nut van't Algemeen* in Holland and legislated by the 'Wetten van het Departement der Bataafsche Maatschappy Tot Nut van't Algemeen' (Howes, 2004:9). As a result of the nationalisation of education, Governor De Mist issued a school ordinance in 1804, which withdrew the control of public education from the church and made the organisation of public schooling the responsibility of the government (South African History Online, 2009; De Montmorency, 2008:149). In addition, teachers from the Netherlands were imported to improve the quality of education (Godee-Molsbergen, 2009:78; Voight, 2009:90). In spite of this, the rule of the Batavian Republic was short-lived due to the breakdown of The Treaty of Amiens in 1805. Consequently, the British government took over the governance and control of the Cape again in 1806 (Beck, 2000:45, South African History Online, 2010). This control was characterised by the fact that

Britain only had control of the Cape in terms of its military occupation of the Cape.

3.1.3 British Government

The military occupation of Britain started in 1806 and ended in 1814 when The Treaty of London was signed with the Batavian Republic recalling The Treaty of Amiens signed in 1802. As a result, the Cape was handed over permanently to the British government in 1814 (Botha, 1921:7; Glenn 2008:3). The British government, through Governor Cradock, changed the governance of the provision of education back to the Church Council, through sexton schools, by combining the office of the teacher with that of a church clerk (Fourie, 1954:60-61; Olivier, 2005:103). Cradock also started with an Anglicisation policy for the Cape in 1810 and by 1813, free public schools that were taught through the medium of English by English speaking teachers who were incentivised to teach in English.

By 1814, only English speaking citizens were employed in the civil service (Beck, 2000:47-53; South African History Online, 2010). Once the Cape was formally under the British government's control, education was the vehicle used for the British's Anglicisation policy. Governor Somerset assumed power in 1814 and intensified the British's Anglicisation policy by moving the governance responsibility of education under the British government (Baldauf & Kaplan, 2004:202; Olivier, 2005:103). Governor Somerset's Anglicisation policy was proclaimed in 1822, which led to English and Latin being the only languages taught in schools and teachers were imported from Scotland to teach in the government schools. Along these lines, free English medium schools were subsidised by the government, based on the Monitorial System in which more advanced students taught the less advanced students and all official documents were to be in English by 1825 and by 1828, all the proceedings in the courts of law were in English (Baldauf & Kaplan, 2004:201; Sehoole, 2006:4; McCormick, 2003:24).

Parallel to the free English medium schools, the missionary schools focussed mainly on non-white scholars to complement the free schools (South African History Online, 2009). In reaction to the Anglicisation policy, the Dutch speaking colonists established Dutch medium private schools and *The Zuid-Afrikaansche Athenaeum* (South African College) in 1829 for further education following on the *Tot Nut van't Algemeen*, which later developed into the South African College Schools (SACS) and the University of Cape Town (Deumert & Vandenbussche, 2003:19-20; Baldauf & Kaplan, 2004:202).

Although traders and colonialists had previously explored the frontiers in 1824 in the region of Port Natal (Durban) and had gone northwards to the Orange River (Free State) in 1825; it was essentially the Anglicisation policy that the Dutch speaking colonists resented resulting in the migration to the north and the east (the Great Trek) in 1835 (Baldauf & Kaplan, 2004:202; South African History Online, 2010). Through the Great Trek, the Dutch speaking colonists, also called the Boers, established their own republics, namely the Republic of Natalia (Natal) in 1837, the Transvaal Republic in 1838 and the Republic of Transoranjia (the Orange Free State) in 1845 (South African History Online, 2010). The Boers duplicated the education system of the Cape in their republics by using the same books and systems implemented by means of schoolmasters (Olivier, 2005:105-111). The British government's main focus was on state-aided propriety colleges, which offered secondary as well as post-secondary education and did not provide for higher education (Sehoole, 2006:6).

In 1837, the British government incorporated the South African College as a public institution that prepared students for examination through the University of London that acted as an external examining university for candidates in the Cape Colony (Ngengebule, 2003:1). In the meantime, the British government became increasingly more uneasy about the Boer Republics and annexed Natal in 1844, the Orange Free State in 1848 and Transvaal in 1877 (Worldstatesmen, 2010). In conjunction, the British government also established a bureaucratic public education system, based on Sir John

Herschel's design, in 1838. The implementation, however, took time and eventually an education structure was in place in Natal in 1858 as well as constitutional provision for education in the Transvaal Republic in 1858 and consecutively in 1863 in the Orange Free State (South African History Online, 2009). Governor Grey came into power in 1854 and applied a pacification policy by subsidising all the mission schools and introducing industrial schools, which provided high levels of academic education with its instruction in carpentry, wagon making and smithing (South African History, 2010).

In 1858, the *Education Act 14* (Act 14 of 1858) (the Cape of Good Hope Parliament 1858a) was passed to provide for the creation of Educational Boards in villages and towns with inquisitorial powers for teachers and to draft regulations for the Approval of Divisional Councils (South African History Online, 2009; Walker, 1936:380). The role of the government in higher education was pioneered through the establishing of the Board of Public Examinations in Literature and Science, through *Education Act 4 of 1858* (Act 4 of 1858) (the Cape of Good Hope Parliament 1858b), as a degree granting institution only (the Cape of Good Hope, 2008:191; Falola, 2004:188; Higgs, 2000:12; Greenbaum, 2009:8). By 1865, the *Education Act 13 of 1865* (Act 13 of 1865) (the Cape of Good Hope Parliament 1865) was passed to formalise the government's subsidies for private schools, which was divided into public, mission and "native" schools (South African History Online, 2009). Still, the quest for local higher education training at the Cape increased, as potential students had to travel to Europe for higher education (Reddy, 2004:9).

By 1873, the University of the Cape of Good Hope (UCGH) was established with a Royal Charter to grant degrees and replaced the Board of Public Examinations in Literature and Science (Voogt, 2008:3, Council on Higher Education, 2004h:10). The UCGH was the first university in South Africa under the British Government and led to the drafting of the first set of higher education legislation. Importantly, the UCGH was established and enacted under *Act No. 16 of 1873 of the Cape of Good Hope* (The University Incorporation Act 1873) (the Cape of Good Hope Parliament 1873), with a

Royal Charter to grant degrees and offer examinations but not tuition (University of South Africa, 2009; University Scholarships for South African Students, 2010; Cape of Good Hope, 1897:1-189). The UCGH developed syllabuses, conducted examinations and awarded degrees but offered no tuition. The character and purpose of the UCGH and the other higher education institutions that followed were modelled after the character and purpose of European institutions (Sehoole, 2006:7). In 1875, the *Act No. 9 of 1875 of the Cape of Good Hope* (The University Extension Act 1875) (the Cape of Good Hope Parliament 1875) enabled the UCGH to conduct examinations outside the Cape borders and in other provinces. Subsequently, in 1896, *Act No. 6 of 1896 of the Cape of Good Hope Cape* (The University Incorporation Amendment Act 1896 (Cape of Good Hope Parliament 1896) extended membership of the University's Council to Natal, the Free State and the South African Republic (Transvaal Republic), which provided these provinces with the means to prepare candidates for the UCGH (Aurora, 2009:66; Cape of Good Hope, 1897:1-189, Union of South Africa, 1916a:10).

During the same period (1867 to 1875), gold and diamonds were discovered, which provided a new aspect to education and training. The growth of the mining industry and development of the railways created a demand for technically competent people as railway technicians and mining engineers (Fester, 2006:17). As the mining industry was expanding, the mining companies made training compulsory for this field. To meet these needs, the High Commissioners of the Transvaal and the Orange River Colony passed a resolution that technical schools had to be established in conjunction with the higher education. Students became known as apprentices studying subjects such as machine construction, practical mathematics, carriage building and sketching at technical institutions (Sooklal, 2004:20). Unfortunately, the constant conflict between the British government and the Boers resulted in the Boer War (1899–1902), which caused the suspension of all educational developments during that period. In May 1902, the conflict was ended through the signing of The Treaty of Vereeniging, which incorporated the two Boer

Republics (Orange Free State and Transvaal Republic), under British sovereignty (South Africa History Online, 2010).

3.1.4 Union Of South Africa Government

After 1902, South African politicians and the British government started negotiations for the establishment of a political union under one single state (Gorman, 2007:1). Subsequently, a constitution was drafted and approved by both houses of the Imperial Parliament as *The Union of South Africa Act of 1909* (South African Act of 1909) (House of Imperial Parliament 1909). According to the South African Act of 1909, control of primary and secondary education was allocated to the provinces, while higher education was reserved to the Union government. However, higher education was not defined in the South African Act of 1909 and higher education's scope and functions were therefore unclear, especially technical and vocational training (House of Imperial Parliament, 1909:1-13; Sooklal, 2004:22). Subsequently, the Union of South Africa, a self-governing dominion of the British Empire, officially came into being on 31 May 1910 (Gorman, 2007:1).

After independence, the new government sought the right to exercise its own authority and powers over state affairs from the British Empire. Consequently, higher education was reformed by drafting a formal regulatory framework (Sehoole, 2006:6-7; Stellenbosch University, 2009). In 1911, the Minister of Education passed a resolution on Technical, Industrial and Commercial Education introducing the National Advisory Board for Technical Training, which was responsible for the national syllabi and national examinations (Fester, 2006:18-19). Regulations for higher education were formally endorsed by the government through the enactment of *Acts No. 12, 13 and 14 of 1916* (Union of South Africa 1916). The UCGH was enacted in 1916 under the *Act No. 12 of 1916* (University of South Africa Act 1916) (Union of South Africa 1916a) and became the University of South Africa, an examining university with all the other university colleges still affiliated to it and moved to Pretoria in 1918 (University of South Africa, 2009; Voogt, 2008:3; Ngengebule, 2003:1; Union

of South Africa, 1916a:1-2). The Victoria College and the South African College became the University of Stellenbosch and the University of Cape Town respectively in terms of *Act No. Act 13 of 1916* (University of Stellenbosch Act 1916) (Union of South Africa 1916b) and *Act No. 14 of 1916* (University of Stellenbosch Act 1916) (Union of South Africa 1916c) (Union of South Africa, 1916b:1-2, Union of South Africa, 1916c:1-2). Clarity regarding the functions and funding of higher education institutions became essential as the sector expanded to include technical institutions providing technical classes up to matric level and, in some instances, being absorbed into the engineering faculties of university colleges as well as more university colleges being established and granted full university status (Council on Higher Education, 2004h:10).

Importantly, the *Financial Fourth Extension Act 5 of 1922* (Act 5 of 1922) (Union of South Africa 1922) was enacted to clarify the functions and funding of higher education institutions. Under Act 5 of 1922, technical institutions were classified under higher education and became technical colleges and were incorporated into higher education in terms of their control, administration and regulations under the government through the *Higher Education Act 30 of 1923* (Higher Education Act 1923) (Union of South Africa 1923) (Sooklal, 2004:22-23; Council on Higher Education, 2004h:10; Union of South Africa, 1923:1). However, during the Second World War (1939-1945), the syllabi for technical colleges were adopted to train technicians to service the machinery of “modern” welfare. After the war, the provision for a trade test was incorporated into the national syllabi as well as in the Apprentice Act (Sooklal, 2004:25-26). In addition, the Education Department identified a new dimension of education in terms of a need for correspondence education. Consequently, the University of South Africa became a dedicated correspondence institution through the *Higher Education Amendment Act 18 of 1946* (Act 18 of 1946) (Union of South Africa 1946) in 1946 (Ngengebule, 2003:1). One by one, the university colleges became independent institutions, in this regard, the University of Natal (Private) Act 4 of 1948 led to the establishment of the University of Natal, while the University of the Orange

Free State (Private) Act 21 of 1949 established the University of the Free State and the Rhodes University (Private) Act 15 of 1949 established Rhodes University (Ngengebule, 2003:1). By 1951, most of the higher education institutions were established as independent universities. The National Party took government in 1948 and moulded the regulation of the education system according to its belief system, which was based on the principles that different races should develop in accordance with their inherent culture within separated territories, with different types of education (Seroto, 2004:99-105).

3.1.5 National Party Government

The government viewed higher education as “creatures of the states” and together with its belief system launched a series of radical pieces of legislation that had a direct impact on the provision of education, *inter alia*, the *Bantu Education Act 47 of 1953* (Bantu Education Act 1953) (Union of South Africa 1953), *Universities Act 61 of 1955* (Act 61 1955) (Statutes of the Republic of South Africa - Education 1955) and the *Extension of University Education Act 45 of 1959* (Extension of University Education Act 1959) (Union of South Africa 1959) (Breytenbach 2007:15). The *Bantu Education Act 1953* formally ended missionary control of the education of non-white people as the government stopped subsidising missionary schools and moved all administration and control from the provisional departments to be controlled by the central government (South African History Online, 2009; Union of South Africa, 1953:1). The *Universities Act 61 of 1955* provided for the establishment of the South African Universities Vice-Chancellors Association (SAUVCA), a statutory body, which made recommendations to the Minister and Director-General of Education on matters concerning universities, such as university admission requirements (Statutes of the Republic of South Africa - Education, 1955:14). Although universities enjoyed unrestricted autonomy, they were restricted in terms of the admission of non-white students by the *Extension of University Education Act 1959*. The *Extension of University Education Act 1959* provided for the establishment, maintenance, management and control of university colleges for non-white students (Union of South Africa, 1959:1). In addition,

Afrikaans and English became the two official languages. The government also implemented the 50:50 language policy in schools, which implied that 50% of the subjects were taught in Afrikaans while the other 50% of the subjects were taught in English (Mabokela & King, 2001:61-64). This resulted in a system of racially and ethnically distinctive universities, separate universities for different race groups and the restriction of non-white students to white universities (University of Free State, 2005:1-2; Robus & Macleod, 2006:463-480).

Nonetheless, by 1964, the government commissioned Professor HO Monning to establish the capacity of the Universities and Technical Colleges to provide training in the area of technology. The report indicated that universities and technical colleges did not have the capacity to provide this training; therefore, the four most advanced technical colleges were identified to function at a level between universities and technical colleges (Sooklal, 2004:27). The colleges of advanced technical education (CATEs) were created through the *Advanced Technical Education Act 40 of 1967* (Act 40 of 1967) (National Department of Education 1967) in 1967, that offered post matric three-year national diplomas. They were renamed Technikons by means of the *Advanced Technical Education Amendment Act 43 of 1969* (Act 43 of 1969) (National Department of Education 1969) (Raju, 2004:3). Act 40 of 1967 also provided for the establishment of a Committee of Technikon Principals (CTP), which had similar functions in terms of the Technikon environment as SAUVCA had. However, Act 40 of 1967 was repealed by the *Technikons Act 125 of 1993* (Technikons Act 1993) (National Department of Education 1993), which made provision for Technikons, their control, management and regulation thereof (National Department of Education, 1993:3-26). The government regulated the universities under the *Universities Act No 61 of 1955* (Act 61 of 1955) (Statutes of the Republic of South Africa – Education 1955) and Technikons under the *Technikons Act 125 of 1993* (Technikons Act 1993) (National Department of Education 1993), while technical colleges fell under the provincial governments and provided courses up to matriculation level and some post matric level national diplomas for technicians' level. At that stage, no stipulation pertaining to private providers appeared in the legislation,

although private provision has been in existence since 1829 as discussed in section 1.2 (Council on Higher Education, 2006a:1).

Apart from the government's legislation, universities and technikons were also regulated in terms of their respective private acts and regulations relating to the function of each institution, which gave effect, *inter alia*, to the following programme and qualifications regulatory policies:

- *A Qualifications Structure for Universities in South Africa (NATED Report 02-116 (89/01))* (National Department of Education 1989).
- *A Qualifications Structure for Universities in South Africa (NATED Report 116 (99/02))* (National Department of Education 1999a).
- *The General Policy for Technikon Instructional Programmes (NATED Report 150 (97/01))* (National Department of Education 1997).
- *The Formal Technikon Instructional Programme in the RSA (NATED Report 151 (99/01))* (National Department of Education 1999b) (Department of Education 2002c:2-3, Breytenbach 2007:16).

The *NATED Report 02-116 (89/01)* (National Department of Education 1989) provided specific guidelines and established the framework for universities to position and establish themselves as higher education institutions. After its revision, in 1994 as part of the change of government, the *NATED Report 116 (99/02)* (National Department of Education 1999a) was released as an interim document (National Department of Education, 1999a:1-4). The *NATED 150 Report (97/01)* (National Department of Education 1997) provided for general, examination and certification requirements for national instructional programmes within the technikon system as well as the qualification structure for technikon degrees (National Department of Education, 1997:iii). The *NATED Report 151 (99/01)* (National Department of Education 1999b) made provision for the structure of the instructional programmes of technikon qualifications (National Department of Education, 1997:41).

These programme and qualifications policies ensured that the essence of a university was science and the essence of a technikon was technology. It

implied that the term “science” was designated to all scholarly activities in which knowledge for the sake of knowledge is studied, and the term “technology” was used to designate activities concerned with the applications of knowledge (Bunting, 2002:35). In turn, technical colleges were identified as single purpose institutions with a specific vocational educational and training purpose (Breytenbach, 2007:16). It seems that the regulatory framework allowed for the development of a higher education system that was highly fragmented in terms of structure and governance and was far from being a coherent and coordinated system (Council on Higher Education, 2004g: 230). This resulted in resistance against the higher education landscape as this resistance was regarded as being part of the struggle against apartheid and against the apartheid education system. Consequently, these struggles led to negotiations between the government of the day and the ANC for both a non-racial and non-sexist higher education system as well as for a democratic South Africa towards the late 1980s (South Africa History Online, 2010). Against this background and former President de Klerk’s announcement of the government’s intention to dismantle apartheid, the National Education Crisis Committee was formed in 1985 and was renamed the National Education Coordinating Committee (NECC) in 1990 with the task of initiating the ANC's National Education Policy (Walker, 2004:3; South African History Online, 2009).

3.1.6 African National Congress Government

The African National Congress was officially unbanned in 1991 and started to draw on the agenda for a new education policy (Kallaway, 2002:185). In this regard, the NECC initiated a research and policy programme, called the National Education Policy Investigation (NEPI) process, into the education transformation for a democratic South Africa. The outcome of the process formed the basis for the drafts of and final *Reconstruction and Development Programme* (RDP) (African National Congress 1994a) documents (African National Congress 2007). Chikulo (2003:1) states the RDP documents were viewed as the cornerstone of the ANC government’s development policy and a

yardstick against which the success of the government development policy would be assessed. Subsequently, three documents mandated to expand the framework for higher education in a democratic society, were published, namely *A Policy Framework for Education and Training* (African National Congress 1994b), *A Discussion Document on a National Training Strategy Initiative* (National Training Board 1994) and the *Implementation Plan for Education and Training* (Centre for Education Policy and Development 1994). The three documents laid the foundation for the *South African Qualifications Authority Act 58 of 1995* (SAQA Act) (South Africa Qualifications Authority 1995), which provided for the establishment of South African Qualifications Authority (SAQA) and the development and implementation of the National Qualifications Frameworks (NQF) (Gravett & Geysers, 2004:7; South African Qualifications Authority, 2007b).

SAQA established the NQF by means of the *National Standards Bodies Regulations No 452 of 1998* (NSB Regulations, 1998) (South African Qualifications Authority 1998a), which consisted of eight levels and three bands:

- General education and training (level 1 and below).
- Further education and training (levels 2 - 4).
- Higher education and training (levels 5 - 8).

In addition, there were twelve organisation fields:

- Agriculture and nature conservation.
- Culture and arts, business.
- Commerce and management studies.
- Communication studies and language.
- Education, training and development.
- Manufacturing, engineering and technology.
- Human and social studies.
- Law, military science and security.
- Health sciences and social services.
- Physical, mathematical, computer and life sciences.

- Services.
- Physical planning and construction (South African Qualifications Authority, 1998a:1-3).

Provision for Education and Training Quality Assurance Bodies (ETQAs) for the purpose of monitoring and auditing achievements in terms of national standards or qualifications was made by SAQA through the *Education and Training Quality Assurance Bodies Regulations No 1127 of 1998* (ETQA Regulations 1998) (South African Qualifications Authority, 1998b:1). Subsequently, SAQA released a number of Policy Documents and Criteria and Guidelines documents *inter alia* the Policy Document, *Criteria and Guidelines for Providers* (South African Qualifications Authority 2001) to provide private providers with guidelines in terms of the registration process for private providers as stipulated in the HE Act and discussed in chapter two (South African Qualifications Authority 2007b). Simultaneously, the process of transformation of the higher education system, in terms of its democratisation in accordance with the values of human dignity, equality, human rights and freedom, non-racism and non-sexism, was adopted during the drafting of the Constitution (Department of Education, 2001c:8).

3.2 CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA

Before the 1994 democratic elections, an interim constitution, *Constitution of the Republic of South Africa Act 200 of 1993* (Republic of South Africa 1994) focussing on equality between men and women and people of all races was drafted to ensure that all citizens were able to enjoy and exercise their fundamental rights and freedoms (Republic of South Africa, 1994:1-124). After the election and with the objective to ensure that the Constitution was legitimate, credible and accepted by all South Africans, the Constitutional Court, in consultation with the Constitutional Assembly, drafted the *Constitution of the Republic of South Africa Act 108 of 1996* (Republic of South Africa 1996), which became law on 10 December 1996 (South Africa History Online, 2010).

The Constitution lays down certain ground rules and imposes specific obligations on the government to transform and unify the educational system within South Africa, whilst in turn, granting to each citizen the right to receive education (Stockwell, 2007). The provisions of the Constitution, in terms of private higher education, are stipulated in section 29 and discussed in section 2.1. The Constitution's provisions provided the background for the post 1994 higher education regulatory framework for the Republic of South Africa.

3.3 HIGHER EDUCATION LEGISLATIVE ENACTMENT PROCESS FOR PRIVATE HIGHER EDUCATION INSTITUTIONS

The government set the scene to provide for education in South Africa against the provisions of the Constitution. The fundamental policy framework of the Department of Education (DoE) was based on the education policy framework of the ANC (see section 1.3) and in 1995, the DoE published its first policy document, the *White Paper on Education and Training* (Department of Education 1995). This policy document has served as the principal reference point for subsequent education policy and legislative development (Department of Education, 2001c:8). The link between higher education and the economic growth, national achievements in development, competitiveness and welfare of a country, as discussed in section 1.1, concerned the government with the appointment of the National Commission on Higher Education (NCHE) in February 1995 (African National Congress 1994a).

The NCHE started with the transformation of the higher education system, within the framework of the Constitution, by providing the fundamentals for the policy framework. As discussed in section 1.3, the NCHE released two policy documents in 1996, first *A Framework for Transformation* (National Commission on Higher Education 1996a) and second *An overview of a New Policy Framework for Higher Education* (National Commission on Higher Education 1996b) (Association of the Development of Education in Africa, 2007). *A Framework for Transformation* policy document recommended the foundation for the new transformation agenda for the higher education system as well as for governance, management and teaching. *An overview of a New*

Policy Framework for Higher Education policy document recommended a cooperative governance model, which moved the government to a wide range of governance mechanisms that are concerned with the growing rife of associations, different agencies and partnerships and echoed the dynamic and interactive nature of coordination (Helen Suzman Foundation, 2007).

The NCHE policy documents generated considerable public debate. As a preliminary response to these debates and by using the NCHE policy documents as the primary source, the DoE published the *Green Paper on Higher Education Transformation* (Green Paper) in December 1996 (Department of Education 1996) (Association of the Development of Education in Africa, 2007). Subsequently, after extensive investigation and consultation, the DoE released *A Programme for the Transformation of Higher Education (Education Draft White Paper 3)* (Department of Education 1997c), *Education White Paper 3 – A Programme for Higher Education Transformation* (White Paper) (Department of Education 1997a) and the HE Act (Department of Education 1997b). The organising concept of these documents was that South African Higher Education needed to be unified into a single coordinated system (Department of Education & Department of Labour, 2002:153). The *Green Paper* (Department of Education 1996) endorsed most of the recommendations of the NCHE reports, but suggested a single body called the Council on Higher Education (CHE) to regulate and advise the Minister of Education on policy matters instead of the NCHE's two bodies called the Higher Education Forum and the Higher Education Council (Reddy, 2004:37). The *Education Draft White Paper 3* (Department of Education 1997c) elaborated on the structure of the higher education system that included reference to the NQF levels 5 to 8 as indicated in the SAQA Act, governance of universities, technikons and technical colleges by different government levels as well as the autonomy of universities and technikons (Department of Education, 1997c:22-31). The *White Paper* (Department of Education 1997a) reiterated the concept of a single, coherent, national education system, which is programme-based in terms of the NQF levels and supported the goals set out in the RDP documents for higher education (Department of Education, 1997b:17-19, Reddy, 2004:37).

Importantly, the HE Act (Department of Education 1997b) was the document in which all these concepts were brought together. Both the Universities Act 61 of 1955 and the Technikons Act 125 of 1993 were repealed in their entirety by the HE Act (Department of Education, 1997b:1, 44). The HE Act also made provision for the establishment of the CHE and the provision for the registration of private higher education institutions, which was a historical first. Other functions laid down by the HE Act were the auditing of institutions and the promotion of quality assurance at higher education level, which the CHE realises through its permanent quality committee, the Higher Education Quality Committee (HEQC) (Council on Higher Education, 2007d).

The CHE was tasked with the reviewing of the size and shape of higher education because all higher education qualifications had to fall under a single co-ordinated system (Raju, 2004:29). In 2000, the CHE released the report *Towards a New Higher Education Landscape: Meeting the Equity, Quality and Social Development Imperatives of South Africa in the 21st Century* (Council on Higher Education 2000) (Department of Education, 2001c:5). *Towards a New Higher Education Landscape: Meeting the Equity, Quality and Social Development Imperatives of South Africa in the 21st Century* report elaborated on the 1996 reports of the NCHE and the goals and purposes advanced in the White Paper (Department of Education 1997a) (Council on Higher Education, 2000:4).

Following the CHE's report, the Department of Education released the *National Plan for Higher Education* (NPHE) (Department of Education 2001a) in 2001. The NPHE gave effect to the vision for the transformation of the higher education system as outlined in the White Paper and provided an implementation framework and identified the strategic interventions and levers necessary for the transformation of the higher education system (Department of Education, 2001c:4). These included:

- Objectives and timeframes.
- Regional cooperation in relation to programme rationalisation.
- A language policy.

- The development of a new funding policy.
- A regulatory framework for quality assurance.
- Proposals for the restructuring of the higher education landscape through mergers and incorporations.
- A new academic policy.
- A proposal for the establishment of a National Higher Education Information and Applications Service (Centre for Higher Education Transformation, 2003:6).

By 2002, the *A New Academic Policy for Policy and Qualifications in Higher Education* (New Academic Plan) (Department of Education 2002c) was released and gave effect to the policy guidelines set out in this regard in the White Paper, HE Act and NPHE. The New Academic Plan was developed under the authority of the SAQA policies and regulations related to the NQF and the registration of qualifications and applicable to both the public and private sectors (Department of Education, 2002c:1-2). The government has established the policy and regulatory framework for transformation of the higher education system and set out on implementing the framework. However, the implementation started first with private higher education providers in 1998 (South Africa Consulate General, 2010).

During the late 1990s, the attitude of the government changed towards private higher education institutions due to the financial straits experienced by many of the public higher education providers. This led to believing that students rather registered at private higher education institutions instead of at public higher education institutions. The government focussed its policy on the regulation of private higher education institutions based on section 53 of the Higher Education Act (HE Act). In terms of this section, applicants have to be accredited prior to registration with the DoE (Fehnel, 2002:233; Department of Education, 1997b:35). Subsequently, private higher education institutions were informed that all the private institutions that wished to offer higher education programmes in future must be registered before 1 January 2000 in terms of the stipulations in the HE Act (South African Qualifications Authority

2007b). The CHE was not yet accredited by SAQA as a band ETQA and SAQA therefore conducted the provisional accreditation of programmes and private providers themselves until 2002 (Council on Higher Education, 2003a:1). However, the registration process of private higher education institutions by the DoE was done on the basis of a constantly evolving manual. It resulted in an experience that has been difficult and often frustrating for both the Department and private higher education institutions (Department of Education & Department of Labour, 2002:156). The experience did not change the belief held by the government regarding the status of private higher education institutions and the regulatory framework was altered accordingly. For that reason, various successive higher education amendment acts were released by the DoE. In 1999, the DoE released the *Higher Education Amendment Act 55 of 1999* (Department of Education 1999) to address, *inter alia*, the designation of the Director-General as the registrar of private higher education institutions and to extend the requirements to be determined by the registrar for the registration of private higher education institutions (Department of Education, 1999:2). Afterwards, the DoE released guidelines on the registration procedures for private higher education institutions, which recommended that private institutions form partnerships with public institutions in order to facilitate registration (Fehnel, 2002:227-228). However, the government perceived public-private partnerships to be unregulated and too huge with possible detrimental effects on other public institutions. As a result, in February 2000, the minister placed a moratorium on private-public partnerships (Mabizela, 2005:3; Council on Higher Education, 2000:45). The *Higher Education Amendment Act 54 of 2000* (Department of Education 2000) followed, which extended the power of the Minister of Education to determine that a public institution may not make further provision for the registration of private higher education institutions without the concurrence of the minister (Department of Education, 2000:2). The CHE was officially founded in 2000 and the *Higher Education Amendment Act No 23 of 2001* (Department of Education 2001b) made provision for the Higher Education Quality Committee to be deemed to be accredited as an Education and Training Quality Assurance Body and the repeal of the Private Acts of the Universities and other obsolete

acts (Department of Education, 2001b:1). Importantly, provision was made for the minister's authority to promulgate regulations by means of the *Higher Education Amendment Act 63 of 2002* (Department of Education 2002b) (Department of Education, 2002b:2). This was followed by the *Higher Education Act, 1997: Regulations for the Registration of Private Higher Education Institutions* (Regulations) (Department of Education 2002a). The regulations made provision for the following:

- Any company to apply for registration as a private higher education institution.
- For a registered or provisionally registered institution to apply for amendment of registration.
- For a provisionally registered institution to apply for the conversion of registration.
- Registered private higher education institutions to submit an annual report (Department of Education, 2002a:2).

In 2003, the regulations were amended by the addition of *A Guide for Completing the Application for Registration as a Private Higher Education Institution* (Department of Education 2003a) to provide for annexures that were supporting documents to the regulations (Department of Education, 2003a:2). These annexures were the following:

- *Regulations for the Registration of Private Higher Education Institutions: A Guide for Completing the Application for Registration as a Private Higher Education Institution (APX-01).*
- *Regulations for the Registration of Private Higher Education Institutions: Application for Registration as a Private Higher Education Institution (APX-01).*
- *Regulations for the Registration of Private Higher Education Institutions: A Guide for completing the Application for Amendment (APX-02).*
- *Regulations for the Registration of Private Higher Education Institutions: Application for Amendment (APX-02).*

- *Regulations for the Registration of Private Higher Education Institutions: A Guide for completing the Application for Conversion (APX-03).*
- *Regulations for the Registration of Private Higher Education Institutions: Application for Conversion (APX-03).*
- *Regulations for the Registration of Private Higher Education Institutions: A Guide for completing the Annual Year Report (APX-04).*
- *Regulations for the Registration of Private Higher Education Institutions; Annual Year Report (APX-04).*
- *Regulations for the Registration of Private Higher Education Institutions: Schedule of Fees Payable by Private Institutions on Lodging an Application for Registration, an Application for Amendment and an Application for Conversion (APX-05) (Department of Education, 2003a:1-160).*

The regulations were subsequently amended through the *Amendment to the Regulations for the Registration of Private Higher Education Institutions* (Department of Education 2004c) to make provision for the registration of institutions registered prior to the promulgation of the Regulations in 2002 by 31 December 2005 (Department of Education, 2004c:4). The date was extended twice, first until 31 December 2006 through the *Amendment to the Regulations for the Registration of Private Higher Education Institutions* (Department of Education 2005) (Department of Education, 2005b:4) and secondly, through *Amendment to the Regulations for the Registration of Private Higher Education Institutions* (Department of Education 2006) (Department of Education, 2006:3). As with the higher education system, the school system was also revised in response to the knowledge and skills required for the increasing demands of the 21st century, globalisation and other forms of progress. The revised National Curriculum Statement (NCS) was based on the principles of Outcomes-Based Education (OBE) with only one level in every subject (Independent School Association of Southern Africa, 2008:2-3). This implied that the admission requirements for entrance into higher education changed and the National Senior Certificate replaced the Senior Certificate in 2008. Therefore, it became essential for a new policy

framework that outlined the entry requirements into higher education (Department of Education, 2005a:4).

Thus, in 2005 the policy the *Minimum Admission Requirements for Higher Certificate, Diploma and Bachelor's Degree Programmes requiring a National Senior Certificate* (Department of Education 2005a) was released by the Department of Education. The policy was structured within the terms of section 3 of the HE Act and the *Higher Education Qualifications Framework Policy issued under the Higher Education Act, Act No 101 of 1997. Draft for Discussion* document (Draft Higher Education Qualifications Framework) (Department of Education 2004d) and were applicable to all higher education institutions with effect from January 2009 (Department of Education, 2005a:4). The *Draft Higher Education Qualifications Framework* was finalised and published as the *Higher Education Qualifications Framework* (HEQF) (Department of Education 2007) and provided for a single qualifications framework applicable to all higher education institutions (Department of Education, 2007:3).

The HEQF made provision for a NQF of ten levels of which higher education occupies six. Levels 5-7 are reserved for undergraduate- and levels 8-10 for postgraduate qualifications. The HEQF replaced the NATED Report 116 (99/02); NATED Report 150(97/01) and NATED Report 151(99/01) (Department of Education, 2007:5). Due to the changes in the levels reserved for higher education by the HEQF, the DoE repealed the SAQA Act in its entirety by the *National Qualifications Framework Act No. 67 of 2008* (NQF Act 2008) (Department of Education 2009a). The NQF Act indicated the responsibilities of the Minister of Education and the Minister of Labour in terms of SAQA and the three Quality Councils (Council on Higher Education (CHE), the General and Further Education and Training Quality Assurer (Umalusi) and Quality Council for Trade and Occupations (QTCO) and provided for transitional arrangements for the implementation of stipulations of the NQF Act (Department of Education, 2009a:2). To provide access to higher education (HE) from the college sector side, the National Certificate (Vocational) for the

college sector was implemented (Department of Education, 2009b:1). Admission requirements for HE was indicated in the *Minimum Admission Requirements for Higher Certificate, Diploma and Bachelor's Degree Programmes requiring a National Certificate (Vocational) at Level 4 of the National Qualifications Framework* (Department of Education 2009b). With all the changes to the regulatory framework, it became important to amend the HE Act accordingly. Therefore, *the Higher Education Amendment Act No 39 of 2008* (Department of Education 2008b) was released to bring the HE Act in line with the NQF Act 2008 (Department of Education, 2008b:2). Contemplating the current government's enactment, the government has increasingly taken a dominant role in the governance of the HE system with a series of amendments to the HE Act (Hall & Symes, 2003:5).

3.4 SUMMARY

South Africa's higher education system originated from a relatively simple framework, but it became progressively more complex (Council on Higher Education, 2004g: 10). Since the establishment of South Africa's first government in 1652, education- and language policies were the instruments used for political, social, and economic and cultural control (Mabokela & King, 2001:60). The need for the transformation of the higher education system in South Africa thus stemmed from factors such as the historical legacy of inequity and inefficiency, national and global opportunities and challenges in expanding access for all people in South Africa regardless of race, gender, age, location and financial position (Parliament of the Republic of South Africa, 2006:6). This resulted in higher education policies being framed within a political philosophy recognised as cooperative governance, in which the government has a supervising role regarding the higher education system, which ensures academic quality and is instrumental in maintaining a certain level of public accountability (Hall & Symes, 2003:5-7). Policy documents acknowledged the role of the private providers of higher education and noted that the private provider sector was relatively well developed, was able to compete with the public sector and/or play a complementary role. Therefore,

they encouraged its continuation as part of the wider higher education landscape in furthering the goals of higher education of the country (Department of Education, 2001a: 64; Kruss, 2004:4). However, due to a sequence of institutional crises and a lack of confidence in higher education leadership, the HE Act went through a series of amendments aimed at increasing the minister's power to ensure direct intervention at institutional level and consequently, the state moved from a steering approach to a controlling approach (Moja, Cloete & Olivier, 2003:33). This resulted in the private higher education developing from an insignificant sector to becoming one of the most regulated and well- studied segments of the South African education environment (Council on Higher Education, 2007e:174).

Then again, direct control of higher education by the government in developing countries is not effective and can cause problems that can decrease the ability of higher education institutions to meet their primary goals of promoting economic development, social justice and the interests of civil society (Hall & Symes, 2003:18). This post-apartheid policy has been criticised for its political symbolism and the fact that the government has focussed on settling policy struggles in the political domain resulting in the government being more engaged with new policy statements rather than with their implementation (Jansen, 2001:272-274).

CHAPTER FOUR: RESEARCH DESIGN AND METHODOLOGY

".. research can help teachers and policy makers improve curriculum design, instruction and student learning in higher education" (Nicol, in Oakey & Roberts, 2001:2).

4.1 INTRODUCTION

Educational research, politics and decision-making are inextricably intertwined on both a macro- and micro level and the research outcome will be used if it is politically acceptable (Cohen, Manion & Morrison, 2008:5-46). In chapters two and three, the chronological development and implementation of government-motivated policies were discussed. In this chapter, the research design and associated methodology, used to gain knowledge and understanding of the phenomena of the management of private higher education within the current regulatory context and its underlying relationships, will be discussed (Marx, 1976:234-260; Packman & Attanasio, 2004:26; National Research Foundation, 2006:7-8). Furthermore, this study will determine whether the theory and method used to gather the data to generate the theory is scientifically acceptable (Cano, 2002).

In scientific research, behaviour is described, predicted and explained to ensure the validity of empirical research (Jackson, 2003:14). Hence, the researcher has to reflect on the philosophical assumptions when deciding on an inquiry, with the aim of selecting the appropriate research paradigm, - approach, -design, and -method to ensure the scientific status of the research (Moody, 2002:2; Schulze, 2003:11; De Vos & Schulze, 2002:45; Cohen, Manion & Morrison, 2008:5). For this study, the philosophical assumptions documented in Creswell's 2007 publication were considered together with the researcher's own worldviews and set of beliefs underpinning her viewpoint and choice of the research inquiry (Creswell, 2007:15-19; Cohen, Manion & Morrison, 2008:5; Emgyeni Collaborations, 2009:6; Cheung, 2008:1; Opie, 2004:19). The researcher's paradigm further narrowed to provide for the

interpreting of the researcher's theoretical-conceptual framework by informing and shaping the practice of the research through determining the:

- Individuals to be studied.
- Types of questions and problems examined.
- Data collection approaches.
- Data analysis processes.
- Writing and evaluation processes.
- Use of the information to change society or to add social justice (Houser, 2008:165-166; Creswell, 2007:30).

Furthermore, Creswell's 2007 publication was considered to obtain information on the subject of both the four research paradigms as well as the six research approaches that inform qualitative research (Creswell, 2007:22-35). To find the most suitable research approach for this study, the researcher took her personal worldview, the need for the study and the different research approaches into consideration.

Therefore, the study emanated from her personal involvement in the managing of a private higher education institute within the current regulatory environment. She was exposed to the private higher education and regulatory environment for ten years and had experienced the impact of the regulatory context on the management of a private higher education institution in terms of quality assurance systems and process; the quality of teaching and learning and the recognition of the institution and private higher education within the South African higher education sector. The aim of the researcher was to understand the world lived and worked in through recognising the relevant historical and cultural settings of the respondents (Creswell, 2003:8; Creswell, 2007:20-27). Thus, the researcher was inclined towards an understanding of the totality of a human being through interwoven relationships and wants to capture the lived experience of the participants by being part of the research and gaining insight in the human phenomena (Gray, 2004:1-4).

For that reason, her research paradigm was supported by social constructivism narrowed down by the perspectives of the critical theory framework, which are manifested in a phenomenological study. The need for this study was established by taking into consideration the cause for the problem, structured within the literature, encoding and foretelling the text for the appropriate research approach (Ellis & Levy, 2008:17-20). Along these lines, political-, policy-, economic- and social developments have made a significant change to the face of private higher education in South Africa.

All these developments have presented internal constraints on managing all the resources within the management process (Fehnel, 2002:345). In spite of this, relatively little research has been done on how these constraints have been experienced by the management of private higher education within the current regulatory context. The researcher believed that there was a need to learn more about the lived experiences of the individuals regarding this phenomenon as non-educational policy groups increasingly demand changes in education (McMillan & Schumacher, 2006:4). In view of that, the purpose of this phenomenological study was to describe the experiences of the management team in terms of the current higher education regulatory context (Creswell, 2007:102-106).

This study was therefore, designed to determine the impact of the main research question as discussed in section 1.4: How is a private higher education institution managed within the current higher education regulatory context in South Africa? This was done within a qualitative paradigm with a phenomenological point of reference using an interpretive approach to the world (Gray, 2004:1-4; McMillan & Schumacher, 2006:9).

4.2 RESEARCH METHODOLOGY

A qualitative research design and methodology allowed the researcher to explore the social occurrence and varying experiences and perspectives of individuals regarding the phenomenon of managing a private higher education

institution in the current higher education regulatory context. The qualitative research methods made it possible to elicit rich, in-depth information concerning this phenomenon studied by the researcher (Patton, 2002:46; Speziale & Carpenter, 2007:20-21; Burns & Grove, 2003:4; Dukeshire & Thurlow, 2002:6).

4.2.1 The researcher's role

During the qualitative research process, the researcher is the primary research instrument for data collection and analysis as the researcher examines and questions the positions or assumptions taken for granted (Wellington, 2000:41-43; Van Niekerk, 2009:109). In this study, the researcher aimed to discover the fundamental nature of the phenomenon through a qualitative research design and methodology. This was done by focussing on the experience and perceptions of events that occurred following the implementation of private higher education regulations by selected staff members who were engaged in the management of a private higher education institution, through a rich and thick description of the lived experiences of the phenomenon (Giles, 2007:6; Visagie, 2002:27). It was therefore imperative to consider ethical measures throughout the research, as the researcher was the primary research instrument for data collection and analysis.

4.2.1.1 Ethical measures

Ethical issues were faced at every stage of the research and it was imperative to apply ethical measures to avoid harming participants (Flick, 2009:36). Internal measures were addressed by conducting the individual interviews at the private higher education institution identified after employment was ended. The researcher's close involvement with the development and growth of private higher education in South Africa over the past ten years lead to a challenge as interviews conducted at almost any significant private institution would have been subject to similar ethical issues. Ethical issues, such as informed consent, anonymity and confidentiality and ensuring no deception

took place and respecting the privacy of participants, were adhered to, to ensure that the participants' ethical rights were safeguarded during the study (Laerd, 2011).

a. Informed consent

In this study, the researcher undertook to obtain informed consent from all the participants by means of communicating to each participant the factors that could influence their decision to participate, such as:

- The research procedure- the risks, discomforts and benefits to be expected.
- Alternative procedures.
- Being given additional information.
- The option to withdraw at any time.
- Being informed that the research was free from prejudice (Cohen, Manion & Morrison, 2008:52-53).

Contact was made with the chief executive officer of a private higher education institution who acted as the contact person in the institution and who helped to identify the relevant members of the management team. Subsequently, the relevant management team members were contacted to present them with information regarding the purpose of the research, the short and long-term benefits expected from the research, benefits to the researcher, the particulars and the professionals concerned (Jali, 2005:26). The management team agreed to participate voluntarily in the research study subject to their anonymity and confidentiality being guaranteed.

b. Anonymity and confidentiality

The management team members were assured of their anonymity and confidentiality in terms of ensuring them that after the information had been collected, the source would not be known, as the participants would not be

identified as shown in appendix A. In addition, the researcher will store the data collected in a safe place (Malematsa, 2004:41-42).

c. Deception and privacy

The researcher undertook to avoid deception and privacy by ensuring that all the participants were informed of the purpose and procedures regarding the research study as discussed in section a and obtained the informed consent (see appendix A) of all the participants. Appendix A provided for the protection of privacy of the participants and informed them that all interviews would be tape-recorded. Although the choice of the data collection was influenced by the skills of the researcher, it was also based on the research problem and resources available (Kumar, 2005:119).

4.2.2 Data collection

As discussed in section 4.1, a qualitative research approach was followed when collecting the data as it provides for a range of qualitative research methods, with action research and case study research being the most common qualitative research methods (Green & Thorogood, 2004:27; Moody, 2002:2).

4.2.2.1 Case study method

Case studies can be used to investigate the experiences of an institution and / or community regarding the implementation of policy (Dukeshire & Thurlow, 2002:7). This study focussed on an in-depth investigation of the experiences of a private higher education institution's management team, based on a single site of delivery, on adhering to the higher education legislation. It makes use of multiple sources of data collection to provide for a detailed in-depth picture of the management team's responses. Importantly, the single instrumental case study type method was deemed appropriate for this study (Jackson, 2003:15; Creswell, 2007:74).

A combination of various data collection and analysis strategies such as observations, interviews and documents were considered to explore and understand the attitudes, opinions, feelings and behaviour of the participants were considered for this study (Moolman, 2006:4). Resulting in documentation, interviews and observation identified as suitable sources for data collection for this study.

Subsequently, a literature study, including policymaking documents of local as well as overseas sources, were studied and analysed to establish what had been published on managing a private higher education institution within the current South African regulatory context (Blaxter, Hughes & Tight, 2006:167). As indicated in the introductory section, 1.6, the literature was found to be very limited. However, the available literature provided a "behind the scenes look," which may not be overtly observable during interviews (Voce, 2004:1). Interviews are regarded as the backbone of qualitative research and evaluation, which provides a verbal picture of various types of systematic behaviour, as they entail individual, interactive conversations between an interviewer and an informant with the objective of getting a true account of a person's life experiences, local histories and shared knowledge (International Training and Education Centre, 2009).

For the purpose of this study, the type of interview was identified based on the purposeful sampling concept, which is based on the researcher selecting individuals and sites as they can purposefully inform an understanding of the research problem, are central to the phenomenon in the study and are convenient (Merriam, 2009:94). The purposeful sample was based on the fact that participants, could communicate their lived experiences, were all located at the same site and had all experienced the phenomenon being explored (Creswell, 2007:125-126). The sample was heterogeneous and consisted of the six staff members, which formed part of the management process and were involved in the phenomenon being studied. The management team included the:

- Chief executive officer.
- Academic director.
- Registrar.
- Head: Student recruitment.
- Head: Examinations and administration.
- Head: Finance.

The fixed and suitable sample of six management members that were used for the study falls within the criteria for individual interviews as managers are often more likely to converse in a one-to-one situation firstly and secondly are outspoken about topics outside of a group situation (DJS Research Ltd, 2010).

4.2.2.2 Individual interviews

Before the commencement of the individual interviews, written permission by means of a letter of consent was obtained from the institution as well as from the participants (appendix A) (Creswell, 2007:125). To ensure that the participants were comfortable and did not feel intimidated, a discussion guide outlining the flow of the questions and topics to be covered during the interview was sent to the participants in advance (appendix B) (International Training and Education Centre, 2009). The individual interviews were held at the office of the private higher education institution at a time and date suitable for each participant (Wholey, Hatry & Newcomer, 2004:352). The researcher used semi-structured questions, which were not only open-ended but also specific in their intent. A general question opened the interview: How did the current higher education regulatory framework impact on the management of your institution? Sub-questions included the following:

- How valuable was the impact of the regulatory context on the private higher education sector?
- What value has been added to the recognition of private higher education within the regulatory context as part of the South African higher education sector?

- What is the nature and extent of the impact of the regulatory context on the quality assurance systems and processes of a private higher education institution?
- What value has been added to enhance the quality of teaching and learning in private higher education institutions?
- How has programme articulation manifested itself in the higher education sector within the regulatory context?
- How has the government fulfilled its mandate in relation to private higher education? (Council on Higher Education, 2006a:8).

During the individual interviews, the researcher and the participants were able to discuss their interpretation of the world in which they lived and were able to express it in terms of their own point of view (Cohen, Manion & Morrison, 2005:267). The researcher observed both verbal and nonverbal behaviour, which provided for the motivation of the participant, which result in a higher response rate (McMillan & Schumacher, 2006:203). Ideas, good and bad, did not influence the other participants and increased the quality of the information obtained (Palmerino, 2006:1). Participants were further encouraged to be reflective and open in their responses to enable the researcher to explore these experiences and perceptions. Probing techniques such as "uh-huh," "tell-me-more," echoing the responses, summarising and silence were used to ensure that theoretical saturation was reached and where no new relevant data was discovered and to motivate participants to give more rich and in-depth answers (McMillan & Schumacher, 2006:205-206; International Training and Education Centre, 2009). Whenever necessary, the researcher directed the discussions to ensure that all the topics were covered (Adam, 2003:86). An individual interview lasted between 10 to 30 minutes, depending on the participants' underlying motivation, beliefs, attitudes and feelings regarding the research problem (Medix Intelligent Information, 2010). Permission was granted by the participants to take field notes and to record the interviews electronically (Warren, 2002:91).

The field notes were expanded after the individual interview as a form of verification and the recorded individual interviews were transcribed as soon as possible after the sessions (Adam, 2003:88). The individual interviews generated large amounts of raw data, which needed to be reduced to an intelligible and interpretable format by means of data analysis to enable the researcher to meet the original aim of the study (British Medical Journal, 2010). The process of data analysis was started during the conducting of the individual interviews by facilitating the discussions in which rich data were generated during the individual interviews and by complementing the data with the field notes and transcribed information (Rabiee, 2004:657).

4.2.3 Data analysis

There are a variety of principles and practices involved in analysing qualitative data due to the different questions asked in terms of social reality. Consequently, there is no single list of characteristics, principles or practice pertaining to qualitative data analysis only (Punch, 2005:194). For this study, the researcher analysed the data according to Tesch's eight steps of descriptive data analysis. The steps were carried out as follows:

- Step 1, the transcribed interviews and field notes obtained from the individual interviews were read carefully by the researcher, to gain a sense of the main themes, words, phrases and statements of significance were highlighted.
- Step 2, the transcript was read alongside the audiotape from which it had been transcribed to obtain the underlying meaning.
- Step 3, thoughts were written down in the margin of the transcribed interviews during the analysis of the transcripts.
- Step 4, all the emerging topics and similar topics were listed and clustered together to form major topics. The unique topics were identified to form important points.
- Step 5, the transcripts and field notes were re-read and the main emerging themes were underlined.

- Step 6, the verbal data was coded and translated into categories. Related categories were grouped together and the most descriptive term was allocated to each category.
- Step 7, the participants that verbalised the same theme or sub-theme were counted.
- Step 8, the categorisation of the data was checked by the researcher's supervisor (Chuene, 2006:8-9).

The data was evaluated to establish the trustworthiness of the data collection and data analysis processes. Trustworthiness refers to the reliability and validity of qualitative data and its analysis. Hence, it is the degree of confidence the qualitative researcher has in the data (Gupta, Sleezer & Russ-Eft, 2007:72; Polit & Beck, 2006:511).

4.2.4 Trustworthiness

Guba and Lincoln's study (1995), suggests four criteria for establishing the trustworthiness of qualitative data namely, credibility, dependability, confirmability and transferability (Polit & Beck, 2008:539). Whereas, credibility concentrates on confidence in the truth of the data, in that credible findings will be produced through a believable investigation; dependability concentrates on the extent to which findings can be replicated, therefore that procedures and processes were acceptable; confirmability concentrates on the researcher maintaining the distinction between personal values and those of the participants, thus using bracketing to insure the data is neutral; and transferability concentrates on whether the conclusion of the data can be transferred to the wider population (Ulin, Robinson & Tolley, 2005:25-27; Polit & Beck, 2006:332-336). Table 4.1 below illustrates how the four criteria were applied in establishing trustworthiness for this study (Poggenpoel, Nolte, Dörfling, Greeff, Gross, Muller, Nel & Roos, 1994:131-136).

Table 4.1: The application of the four criteria to establish trustworthiness for this study (Source: Adapted from Poggenpoel, Nolte, Dörfling, Greeff, Gross, Muller, Nel & Roos, 1994:131-136).

Strategy	Criteria	Applicability
Credibility	Prolonged engagement	Prior to the data collection, the researcher familiarised herself with the settings and with potential participants. In addition, contact with the participants was established by communicating with them and discussing the aim of the study.
	Reflexivity	Taking of field notes clarified personal bias of the researcher by assessing her own background, perceptions and assumptions, feelings and roles regarding the research process and as researcher.
	Triangulation	Using multiple methods of data collection, namely: individual interviews, field notes and literature control.
	Member checking	Participants were requested to do member checking for accuracy during the data collection process. Transcripts and field notes were also triangulated with the available literature.
	Participants' review	Participants were requested to confirm that the comprehensive descriptions were a true reflection of their experiences.
	Peer examination	The supervisor reviewed the comprehensive descriptions of all data collected.

Strategy	Criteria	Applicability
Dependability	Audit trail	Interview questions were developed after an in-depth literature review. In addition, a full explanation of the data analysis protocol was provided.
	Methodology triangulation	The research methodology was explained in full. The data collection methods, field notes, data analysis and literature review were used to triangulate and verify observations and categories identified in the data collection process.
	Peer examination	The supervisor reviewed the comprehensive descriptions of all data collected.
	Evaluation	A consensus discussion of the comprehensive descriptions of the data was held with the researcher's supervisor.
Transferability	Sample	A purposeful sample and selection technique was used as represented in section 4.2.2.1.
	Dense description	A comprehensive description of the methodology was provided in sections 4.2.2.1 and 4.2.2.2 including the individual interviews.
Confirmability	Audit	The supervisor reviewed the comprehensive descriptions of the data gathered.
	Triangulation	As discussed above.
	Reflexivity	As discussed above.

By establishing the trustworthiness of the study, the adequacy and soundness of the methodology were ensured (Holloway & Wheeler, 2002:254). Nevertheless, good educational research should not only be a matter of sound procedures, but should also be beneficial for the human being (Hostetler, 2005:16).

4.3 SUMMARY

Research plays an important role in the policy-making process and can help policy-makers to understand the impact that policies have on individuals and institutions (Dukeshire & Thurlow, 2002:12). Along these lines, Government is the principal decision-making body and is responsible for endorsing all regulatory policy documents. Nonetheless, the diverse nature and background of the regulatory policy document development process can occasionally constrain the evaluation of the need for regulatory policy (National Audit Office, 2007:19). A qualitative research approach was used to explore the phenomenon pertaining to managing a private higher education institution within the current regulatory context, articulate the management team's understanding and perceptions regarding the phenomena and tentative concepts and theories pertaining to the environment were generated (Schulze, 2003:12; Vooght & Govender, 2009:2). The study was structured to complement the literature study that was undertaken in Chapters 2 and 3. Data was collected by means of individual interviews and field notes, tested for trustworthiness and analysed into categories for presentation and discussion (Sao, 2008:76).

CHAPTER FIVE: RESEARCH RESULTS

Data analysis is the process of systematically searching and arranging the interview transcripts, field notes and other materials that you have accumulated to increase your own understanding of them and to enable you to present what you have discovered to others (Bogdan & Biklen, 1992:153; Boeijie, 2010:76).

5.1 INTRODUCTION

In this chapter, the findings of the research results obtained through the data analysis process, will be discussed and presented in relation to the research question. Accordingly, an analysis was undertaken of the research results obtained from the individual interviews with the CEO, academic director, registrar, head: examinations and administration, head: student recruitment and head: finance of a registered and accredited for-profit private higher education institution. The institution offers and awards higher certificates, diplomas and advanced diplomas according to the Higher Education Qualifications Framework (HEQF). Individual interviews were conducted at the main campus of the institution during office hours suitable to the managers. The study explored the views of the management team regarding the impact of the current higher education regulations, the difficulties and benefits of the regulation framework as well as the similarities and differences in the views of managers regarding the regulatory process.

The research results primarily reflected the views of the CEO, the academic director, registrar, head: examinations and administration, head: student recruitment and head: finance. The views were reflected through the eyes of those interviewed; annexure C is an example of one of the transcribed individual interviews. Quotes in this study were not qualified, given that participants were promised anonymity. Participants in the individual interviews were generous with their time and appeared to have been open in their responses to the questions (Kelly, 2001:5). The individual interviews were opened with the general research question: How did the current higher

education regulatory framework impact on the management of your institution?

For this study, the researcher analysed the data according to Tesch's eight steps of descriptive data analysis as discussed in section 4.2.3. The transcribed individual interviews and field notes were analysed and the emerging categories and similar categories were listed and clustered together under a fitting descriptive term. This provided the researcher with an understanding of the totality of a human being through interwoven relationships and to understand the world lived and worked in through recognising the historical and cultural settings of the phenomenon (Creswell, 2003:8; Creswell, 2007:20-27; Gray, 2004:1-4). This was consistent with the researcher's social constructivist paradigm, which was narrowed by the perspectives of the critical theory framework. As indicated in section 1.6, relatively little research has been done on the management of private higher education within the current higher education regulatory context.

As a result, the literature used to compare the findings of this study was very limited and the focus of the available studies was primarily on the impact of the enforcement of the Council on Higher Education's accreditation- and audit criteria. Therefore, the research data and findings presented in the Council on Higher Education studies of 2006 and 2007 respectively, namely *The impact of the Higher Education Quality Committee accreditation on private higher education in South Africa* (draft) (Council on Higher Education, 2006a) and the *HEQC evaluative study of institutional audits 2006* (Council on Higher Education, 2007a), were used.

5.2 DATA PRESENTATION

For the purpose of data presentation, the emerging categories and similar categories were clustered together under fitting subcategories, as indicated and discussed in section 5.1. The following descriptive categories emerged:

- The government's mandate in relation to private higher education.
- The recognition and value added to private higher education within the regulatory context in the private higher education – and higher education sector.
- The impact of the current higher education regulatory framework on the management team and institution.
- Manifestation of programme articulation within the higher education sector.

5.2.1 The government's mandate in relation to private higher education

The following subcategories emerged from the participants' responses:

- The viewpoints of managers.
- Barriers to management functions.
- Benefits to management functions.

5.2.1.1 The viewpoints of managers

Not only did the managers have different views on what the government's mandate entails, some did not have clarity regarding what the government's mandate for private higher education was or should be. In general, the feeling of the management team was that the government either did not fulfil its mandate or fulfilled it inadequately. This was evident from their different views regarding the government's mandate, which ranged from recognition of private higher education providers through the regulatory process to the provision of applicable regulatory information from the government to private higher education providers.

The CEO viewed that the government's mandate was "... *more fulfilled towards the public universities...*" as potential students are promised the opportunity to study at public universities. Thus, the mandate was only applicable towards the recognition of private higher education institutions and mainly concerning

the function of regulation and control and did not include the promotion and growing of the private higher education sector. The CEO continued by stating:

...I do not think the government has a mandate except to recognise us. ...its mandate is exactly just to regulate [sic] that our programmes are not weaker "diluted" deliveries than the public universities... and to ...control us to ensure that our programmes are correct...

The head: finance had a similar view and indicated recognition by the government as the government's mandate and that government "...gives more recognition towards universities than private institutions." The registrar underwrote the views regarding the recognition of an institution through the function of regulation and control and the alternative of growing of the private provider sector.

I think the mandate is only fulfilled in the sense that the regulatory framework and legislation make provision for equality between public and private institutions. Post-public and private higher education [institutions] is [sic] governed by the same legislation, in that sense, I think the government has fulfilled his [sic] mandate. The problem will always remain in terms of funding, students in private higher education has no access to state student loans or state funding which means that the government doesn't really perceive private higher education as an equal option for learners ...

On the other hand, the academic director was not aware of any government mandate and indicated that private providers had to work hard to gain recognition from the government by means of their own intervention by regularly attending regulatory meetings and sitting on regulatory committees. The academic director indicated:

I don't know of any fulfilment of any mandate that the department of education had towards private higher education. I think that we got so far because the private education institutions ... were the people [sic] who really infiltrated the Department of Education meetings and served on committees and being at seminars [so] that they hear about us and that they see us and that they speak to us, it is because we wanted to be prominent, to be seen that they heard about us and that they realised what we are doing...

The head: student recruitment viewed the passing of regulatory information from the government to the institutions as government's mandate. "... *I think it has worked very well, the communication from the government to our regulatory office...*" The different views expressed by the managers in terms of the government's mandate, enabled the researcher to identify a number of barriers regarding private higher education institutional management functions.

5.2.1.2 Barriers to management functions

The two main barriers to management functions, according to the views expressed by the managers, were the inconsistency of the government's regulation and control of all the role-players in the higher education sector and the lack of student financing for private higher education students. The head: student recruitment indicated that management is faced with higher education institutions not being regulated and controlled as the government did not apply the regulatory function consistently across the higher education sector. "... *I still feel there is a lack of following up on institutions that are not complying with all these regulations and laws. There is still a grey area in [that]... they are escaping the impact of this act.*"

In addition, the registrar viewed student funding as a barrier because:

...students in private higher education [institutions] has [sic] no access to state students [sic] loans or state funding ... it is speculation but they still see it as a luxury option, as it is ... only for the rich although the biggest need for access to higher education lies with the poor and the public institutions can't provide that access. The government doesn't make funding available for students to enter private higher education [institutions] ... access to private higher education is determined by the wealth of the learner or the student and not by financial support from the government.

The managers viewed the government's inadequate fulfilment of its mandate towards of private higher education providers to generating barriers to the managers and their associated management functions. However, the managers

also reflected on some benefits to management functions by means of the government's mandate.

5.2.1.3 Benefits for management functions

Increased communication from the government in terms of the government's mandate has been viewed as a benefit to management according to the head: student recruitment. This resulted in clearer internal communication by management towards staff members. "... *I think it has worked very well, the communication from the government to our regulatory office and then from there on down to us...*"

Findings recorded by the research team of the study *The impact of the Higher Education Quality Committee accreditation on private higher education in South Africa* (draft) (Council on Higher Education, 2006a), support the views of the management team regarding clarity on the mandate of government, the intervention by private higher education providers themselves to gain recognition and communication challenges between the government and private higher education providers. The following findings were recorded respectively:

- The implementation of policy during the HEQC accreditation seems to have brought about more confusion in terms of the mandate and boundaries of authority of all the different agencies (Council on Higher Education, 2006a:25).
- The change of attitude by the HEQC has been witnessed through enhanced involvement of private provider stakeholders in HEQC processes, initiatives and government structures (Council on Higher Education, 2006a:27).
- Policy adjustments and changes are often not properly communicated to private providers (Council on Higher Education, 2006a:25).

The findings of the *HEQC evaluative study of institutional audits 2006* also support the view that the private higher education providers themselves intervene to gain recognition. "... *they believed participation would provide them with possible new insights which would strengthen the institution ...*"

(Council on Higher Education, 2007a:10). Strengthening the institution could add value to the recognition of the higher education institution and -sector.

5.2.2 The recognition and value added to private higher education within the regulatory context in the private higher education – and higher education sector

For private higher education providers, the process of gaining recognition as institutions and as a sector, was challenging and impacted on the management functions, as seen in section 5.2.1. The regulatory context includes conditions that relate to the nature and extent of quality assurance systems and processes and the quality of teaching and learning of the private higher education institution, as discussed in chapter 2. The management team's views concerning the scale of the value added by means of these conditions to the recognition of the private higher education – and higher education sector respectively were grouped under the following subcategories:

- The viewpoints of managers.
- Barriers to management functions.
- Benefits to management functions.
- Regulatory changes in the higher education sector.

5.2.2.1 The viewpoints of managers

The majority of the managers agreed that the impact of the regulatory context on the private higher education sector was valuable and added to the recognition and credibility of the sector by the general public and government. The registrar summarised the value added through the impact of the regulatory context to the recognition of the private higher education sector as follows:

I think it was extremely valuable in the sense that it divided the sector into honest real higher education institutions ... that strive towards providing good education, on the other side, [there were] those who

were only in it for a fast buck, to make a lot of money quickly, they were faced with the problems of the regulatory framework within which it could not take place. So, I think the sector in its whole [sic] benefit from it tremendously, from the regulatory framework, the enforcement of the regulatory framework onto the sector. It also leads to a sector that is now perceived to be, or can be perceived to be equal to a public sector in terms of [the] quality to delivery [sic] that would not have taken place if it wasn't [sic] for a regulatory framework.

The CEO and head: examinations and administration respectively were in agreement with the registrar's view regarding the positive impact in terms of the recognition of the higher education sector. The CEO indicated:

I think in the last few years ... it really make [sic] a good impact by ... setting [sic] a ... certainty and that government added to the recognition of the sector. ... private higher education [institutions] are viewed as [being] a real sector that exist [sic] and recognition are [sic] given to the work we are doing... I think the contexts and role in the marketplace are more acknowledged [sic] by government.

In addition, the head: examinations and administration viewed:

I think it just gives the private [higher] education [sector] that ... stability or more an arm to lean on ... to say, look we meet the requirements that have been given to us and we are busy moving to a higher level that ... can end on [sic] university level.

The head: student recruitment supported the registrar's view that the higher education sector was divided into recognised eligible and illegal higher education providers respectively:

I think it was very valuable because we compete in a market where ... so many institutions ... don't ... register or their programmes are not registered in terms of the private higher education [legislation], and which leads to ... a misleading campaign for parents as to where their children must study because they are bombarded with institutions that say, "come and study here, come and study here, and do the different courses," but in the end, some of these, ... institutions take students' money and they just disappear off the map, and ... in the marketing field we really felt the value of being able to say that we are registered with the Department of Higher Education...

However, the academic director did not experience the impact of the regulatory context as one that added value and recognition to the private higher education sector, but rather made it very difficult for the private higher education sector as it was not recognised and encountered resistance from the Department of Education.

To me, it was not valuable because the private higher education sector was not recognised by the Department of Education ... we were seen as people that want to barge into the world of the public sector, we just wanted to go with them to work with them, but they didn't see it that way, they were actually against us, starting a new course or a new programme or a new institution ... because they didn't see us as people that really tried to work ... in the tertiary field, that was not valuable for us, that was actually very bad for us. We were not recognised at that stage

Thus, the scale of the value added concerning the recognition of private higher education through the implementation of the regulatory context, appears to be viewed as inadequate by some managers, as summarised by the registrar: "*In practical terms the value is limited. It has got a limiting market value, ... the perceived value is not yet the same as public institutions.*" The registrar elaborated on the value derived from government recognition:

I think the value added is a paper based value in the sense that the institutions are on paper treated as equal and regarded as equal in terms of the fact that there is only one Higher Education Act for public and private institutions but in [terms of] the perception of the population, private higher education is not yet perceived to be equal to public higher education, in many instances, it is still perceived to be an option of a second chance where learners will go or students will go because they could not get into public higher education. In some senses, it is still perceived to be a money-making enterprise only, although on paper, the qualifications offered by the public sector and the private sector are perceived to be of equal value

The academic director supported the registrar's view that the value appeared on paper only and added that recognition by public higher education institutions is also longed for:

I don't think there is at this moment, any recognition of private higher education, yet it is on paper, it states there that it should be done, but no university really recognises any private higher education institution, they think that we don't do the same work as that they do, they don't think that we are on the same level as they are, if we've got levels 5, 6 and 7's, they don't think it is the same, yet it goes through the Council of Higher Education, ... and yet they don't recognise the private higher education institutions as I think they should recognise us.

Then again, the implementation of the same regulatory context on public – and private higher education institutions appears to add to the value of scale in terms of recognition as indicated by the head: student recruitment.

I think the fact that in all the publicised information that goes out from the Higher Education you ... see the state sector and then you see the private institutions, so there is a more visible appearance, the fact that the private higher education also falls under the South African Law and the Higher Education Act.

This view was supported by the CEO, *"I think the value is that it gives recognition to a company and that students have another option for higher education training except the public sector..."*

Recognition is interconnected with the nature and extent of the quality assurance systems and processes of an institution in terms of the regulatory context, as implied by the CEO and academic director. The CEO was of the opinion that the nature and extent of the quality assurance processes ensured that private higher education providers were recognised within the higher education sector. *"I think the most important [aspect] is that this quality assurance has also brought with [it], not only quality but also the registration processes, a greater confidence regarding quality providers in the industry."* Furthermore, according to the academic director:

... the system of quality assurance is very, very important, because we know that quality assurance of each and every thing that you do regarding tertiary education is very important, so we do try to keep everything on a very high level and we do try to work according to the guidelines that they do put on paper for all tertiary institutions. ... the nature and extent is exactly the same as for the ... public ... higher

education institutions, so there is not a difference, it should also be done in exactly the same way, we do try to do exactly the same as universities...

All the managers agreed that they experienced the impact of the nature and extent of the quality assurance systems and processes on the institution. The general view was summed up by the registrar who stated: "*... the enforced quality assurance measures actually improved the quality of what they do... and ... in that sense it made a tremendous positive impact on the institutions.*" This view was supported by the head: examinations and administration that indicated that: "*... the institution was forced to bring in place certain things which, maybe was [sic] not at that time and date in place...*"

The registrar added that:

...the regulatory context enforced, in a sense, fairly rigorous quality assurance systems onto private providers in that providers have to report regularly on certain activities that take place in their environment, so that, in a sense, enforces quality assurance externally through the Council of Higher Education...

The regular reporting consists of an annual year report document to the Department of Education, which requires supporting documentation to prove the implementation of quality assurance systems and procedures by the institution. The head: finances mentioned the "*... tax clearance ...*" certificate,"*... surety ...*" document and financial statements to prove the feasibility of the institution. The head: student recruitment referred to documents for public consumption where the "*... registration number has got to be displayed...*" Additionally, accreditation reports from the Higher Education Quality Committee that indicate that the institution met the accreditation criteria and guidelines, as indicated by the head: examinations and administration:

...there are certain standards that you need to adhere to, to keep your accreditation ...that is why these guidelines are there ... that I think defiantly add towards progress and also profit in the further...

The academic director supported this view and indicated that value would be added *"... if you work according to the guidelines ..."* These criteria and guidelines also impact on the quality of teaching and learning as mentioned by the registrar and academic director, who expressed the view that the impact *"... depends on how the private institution is capable of keeping to what is asked regarding the quality of teaching..."* According to the academic director, this includes ensuring that *"... the content of our programmes are of a high level, the content of our teaching are of a high level and our management..."* The CEO supported this view and remarked that with *"... registered companies and accredited programmes ... together with the CHE's overarching procedures ... there should be a reasonable constant increase in the quality [of] especially programmes ..."*

The academic director also supported this view and elaborated on the process to improve the quality of teaching and learning:

... the private higher education institutions, they do tend to really add and to enhance the quality of teaching and learning so we do try to keep it ... on a very high level, we do check everything, we check our exam papers, we check our tests, we check that there is discipline amongst the students, amongst the lecturers, that the management will check everything that has been done, ... because we never want the public to ever say that the private sector is of a lower level, is on a lower level than what they are, so we really try to enhance [the system] and to add to everything that we do in the learning and private sector.

The head: student recruitment indicated that they experienced the effort that was made to improve the quality of teaching and learning in *"... the fact that information was send out to all the departments where they had to adhere to certain changes and policies that had to be put in place ..."* This resulted in the

... affect it has on the appointment of lecturers, we could see from the start ... the implication or the implementing of this act they were really adhering to the regulations of the lecturer has to have a level of higher qualification ... and it has been implemented at this [sic] institutions...

Additionally, according to the head: student recruitment, it was:

... giving the lecturers the chance to further their studies and say "better yourself and get up there and study." You actually get the feel of what is happening at the universities, your lecturers have got to do some research to get up to [be] on par and [get] up to standard.

In contrast, the registrar expressed the view that the impact was more on the process and procedure side as the:

... regulatory framework is managed and dealt with at managerial level, not at classroom level. ... it depends on the institution's own internal processes, the external framework of quality assurance doesn't regulate quality of teaching and learning... it deals with processes and procedures and documents and policies..., it doesn't address what really goes on in the classroom...

It is clear from these views that barriers to the management function have been experienced. Management evidently perceives the regulatory framework differently in different contexts, depending on the nature of their managerial functions.

5.2.2.2 Barriers to management functions

The head: student recruitment explained that the main barrier faced by the institution's management and the private higher education sector, was to maintain its recognition and to counteract the negative impact that illegal higher education role-players have on their status. Some private higher education institutions:

... doesn't [sic] register or their programmes are not registered under the private higher education, and which leads to a misleading... campaign, ... in the end some of these institutions take students' money and they just disappear off the map...

The CEO agreed with this view and expressed his frustration at the fact that there are "... still a lot of unregistered and unaccredited players ..." and their "... quality is not good." Furthermore, some of these providers "... offer all types of courses, they are not at all accredited, does [sic] not meet the audit

qualities or any other quality assurance ... and then one can do nothing to get them out of the system."

Furthermore, both the registrar and the academic director respectively supported the view that maintaining the recognition of legal private higher education institutions was a barrier. That is even in spite of meeting the conditions within the regulatory context:

...private higher education is not yet perceived to be equal to public higher education, in many instances, it is still perceived to be an option of a second chance where learners will go, or students will go because they could not get into public higher education [and/or]... a money making enterprise...

Subsequently, private higher education institutions' quality assurances systems and procedures, as well as the quality of teaching and learning are not recognised.

...no university really recognises any private higher education institution, they think that we don't do the same work as that they do, they don't think that we are on the same level as they are, if we've got level 5, 6 and 7's, they don't think it is the same...

What's more, the registrar contended that the capacity of the private higher education was a barrier in that:

... keeping to what is asked regarding the quality of teaching and learning ...[as]... it is possible even under this regulatory framework to still have bad teaching in classrooms ...[and still]... report good quality teaching and learning...

The managers also mentioned some benefits were experienced to the management functions. This was due to the value added through the implementation of the quality assurance systems and procedures, in terms of the regulatory context.

5.2.2.3 Benefits to management functions

The managers held the general view that the implementation of the regulatory context benefited the institution's management, as summarised by the registrar: *"... people come to realise that the enforced quality assurance measures actually improved the quality of what they do and they can see that, and ... it made a tremendous positive impact on the institutions."* The Academic director added that the positive impact was further shaped as *"... the nature and extent is exactly the same as for the, ... public institutions, higher education institutions, so there is not a difference ..."* The result is that the industry is more assured of quality service provision in the sector as *"... it makes it easier to see whether a private institution is registered or not ...[and its]... a value of being able to say that we are registered with the Department of Higher Education ...,"* according to the head: student recruitment.

The regulatory guidelines provided were viewed as a benefit to managers as they assist in the implementation of the required conditions, as explained by the academic director:

... if you work according to the guidelines, they will be value added... because we do never want the public to ever say that the private sector is of a lower level, is on a lower level than what they are, so we really try to enhance and to add to everything that we do in the learning and private sector...

However, according to the registrar, these guidelines are in the process of changing, *"... the audit criteria will be revisited."* It therefore appears that there will be regulatory changes in the higher education sector in the future.

5.2.2.4 Regulatory changes in the higher education sector

Changes to the current regulatory context as far as the conditions in relations to quality assurance are viewed to be inevitable as indicated by the registrar:

... the powers ... came to realise that their interventions doesn't [sic] really address the core issue in the classroom ... [such as] ... adequate timetabling, adequate weighting in terms of practical work, quality of lectures, variation of delivery, either lectures or small group discussions, it doesn't prescribe that at all ...

Neither the audits nor accreditation *"dealt with actual teaching and learning interventions in classes ... and "... the audit criteria will be revisited."*

Consequently:

... the focus on the next round of quality assurance interventions will be on the classroom, on teaching and learning, not on institutional profiles, not on policies or anything, but the quality of teaching and learning in assessment in the classroom..."

Findings recorded by the research team in the study, *The impact of the Higher Education Quality Committee accreditation on private higher education in South Africa* (draft), (Council on Higher Education, 2006a) support the views of the management team regarding the value added through the implementation of the regulatory context, in terms of the recognition of the private higher education sector, the value added through the quality assurance systems and processes, the document management process preceding the submission of documents needed for regular reporting to the government bodies, the capacity required of an institution to meet the conditions, the impact on the quality of learning and the inadequate regulation of illegal providers. Accordingly, the following findings were recorded in this regard:

- [The HEQC accreditation processes] ...gave effect to a better organised private higher education sector [and were]... perceived as having protected the reputation and integrity of private providers from bad publicity." (Council on Higher Education, 2006a:23-26).

- The HEQC accreditation process led to increased awareness of quality imperatives ...[which]... came along with a broadened understanding of policy provisions and practice ..." (Council on Higher Education, 2006a:26).
- It appears as if the size, purpose and organisational form of each institution play a significant role in shaping the extent to which HEQC accreditation processes exerted an impact on quality arrangements in each of the sampled institutions (Council on Higher Education, 2006a:20).
- The accreditation process is retrospectively perceived to be an essential intervention that promotes the quality of teaching and learning in private higher education (Council on Higher Education, 2006a:20).
- Institutions were of the opinion that the HEQC standardised best practice on teaching and learning across the entire higher education landscape (Council on Higher Education, 2006a:21).
- The relevance of staff qualifications and level of academic expertise became the determining criteria for staff appointments ... [In addition]...structural adjustments on internal and external moderation of student assessment tasks... [were made and] ... controlled by policy guidelines (Council on Higher Education, 2006a:21-22).
- [The HEQC accreditation process] ...has not effectively led to the complete eradication of de-accredited providers from the private higher education space. Some of the institutions that lost accreditation owing to the lack of compliance still compete with institutions that have been awarded accreditation (Council on Higher Education, 2006a:23).

The findings of the *HEQC evaluative study of institutional audits 2006* (Council on Higher Education, 2007a) also supported the view that the current higher education regulatory context impacted management functions and that they had to establish document management processes to produce documentation to enable them to report to the government regularly. "... *initially felt to be onerous ... however, ... staff members began to view the process more positively because they began to have a greater sense of what each department was doing*" (Council on Higher Education, 2007a:26). In addition, the view was supported that the quality assurance processes placed more emphasis on assessing the existence of policies than their implementation:

... it appeared to academics at some of the institutions studied that the HEQC was placing more emphasis on assessing the existence of policies rather than institutional commitment and financial capacity ... it was being

suggested that the second round of audits should be broader in scope (Council on Higher Education, 2007a:27).

Moreover, institutions experienced the "... *difficulty that arose...*" because:

... a number of processes needed to be documented formally for the first time. ... staff realised that the institution had, in fact, been performing many of the functions associated with audit but that these had not been understood or recorded in the ways required by the HEQC (Council on Higher Education, 2007a:26).

These changes to existing processes and documentation procedures have had a direct impact on the management functions within their different departments. Accordingly, these changes also impacted on the management team.

5.2.3 The impact of the current higher education regulatory framework on the management team and institution

All of the managers indicated that they had experience the implementation of the higher education regulatory framework in terms of changes to the documentation, quality assurance systems and procedures and the quality of teaching and learning as seen in section 5.2.2. The impact of these changes on the team and institution due to the higher education regulatory framework as viewed by the management team, were grouped under of the following subcategories:

- The viewpoints of managers.
- Barriers to management functions.
- Benefits to management functions.

5.2.3.1 The viewpoints of managers

All the managers agreed that the higher education regulatory framework impacted on the management structure and functions of the institution. The registrar viewed the impact as follows:

I think ... the impact of the framework on the management of the institution is reflected in the fact that management structures necessarily had to adapt to meet with requirements of various acts and various regulations inclusive of the Companies Act, the Higher Education Act and also the FET Colleges Act, which in a sense, prescribes how management of the higher education institute should take place.

The academic director elaborated that the impact of the higher education regulatory framework on the management structures and functions:

... gave us a background to start as management to know that you have to have people doing the quality assurance and that you do have to have a person like a rector, running the institution and also somebody who will look after the financial part, but also which was very important for us was to know the process of registration the registration of your students and the process of at the end of the day, after three years for them to get their diplomas, how to handle and how to get your diplomas according to the rules and regulations of the quality, the regulatory framework.

The academic director added, "... we worked according to the regulatory framework in that...it gave us the background [in terms of] how to structure our programmes..." According to the head: finance, the framework had a significant impact on the department's procedures, such as "... registration procedures, class lists and student records..." The head: student recruitment also referred to the fact that the higher education regulatory framework made:

... a significant impact in the sense that .. the fact that I had to adhere to the regulations concerning marketing material, displaying our registration number, so that the public out there know that we are a registered private institution.

According to the head: examinations and administration, there was not so much an impact on the department's procedures as on doing quality checks to ensure that "... marks ..." are correct and students "... meet the requirements ..." For the CEO, the impact was greater on the business discussions regarding taking "... more conservative management action in terms of the institution or company ..." Because of the direct impact on the managers and their

departments, barriers to management functions were also identified by the managers.

5.2.3.2 Barriers to management functions

The main barrier encountered by the management team was at the strategic level. The barriers experienced as a result of the regulatory framework on the decisions made pertaining to the business side of the private higher education institution, were emphasised by the registrar and the CEO particularly. According to the registrar:

... the Higher Education Act in a way, excludes the fact that higher education private businesses are businesses and not only institutions ... [and] ... that the institutions also have to meet the requirements of the education act and all other appropriate acts but also run a business that is profitable, because being profitable is part of the pre-requisites of maintaining registration...

The CEO continued by adding that this then resulted in making it extremely difficult to acquire capital through growth, investment or by buying shares within the regulatory framework. On the other hand, some decisions based on the impact of the regulatory framework were viewed as beneficial for the management functions.

5.2.3.3 Benefits to management functions

The CEO indicated that the benefit for management was the "*... guidelines ... that assisted management not in taking too ... wild and quick decisions ...*" According to the academic director, the benefits were in the provision of the "*... background to start as management to know that you have to have people doing the quality assurance and ... running the institution and also somebody who will look after the financial part...*" The head: student recruitment and registrar were both of the opinion that the impact of the higher education regulatory framework was beneficial for the management function in terms of assisting the institution in being recognised. This was done by "*... displaying our registration number, so that the public out there know that we are a*

registered private institution ...,” according to the head: student recruitment. As well as leading the sector “... to be, or can be perceived to be equal to a public sector in terms of quality to delivery that would not have taken place if it wasn’t for a regulatory framework ...”, as indicated by the registrar.

Findings recorded by the research team of the study *The impact of the Higher Education Quality Committee accreditation on private higher education in South Africa* (draft) (Council on Higher Education, 2006a), support the views of the management team regarding the impact of regulatory framework in terms of the development of management structures and functions, changing of departmental processes and procedures and business decisions, which add to recognition of the institution. The following findings were recorded in this regard:

- [The HEQC accreditation processes enforced]...the establishment of more committee structures in critical areas of academic quality and governance ... writing and institutionalisation of an array of policies in relation to business factors and teaching and learning arrangements... and to keep accurate record of student data... (Council on Higher Education, 2006a:21-24).
- [The HEQC accreditation processes] ... compelled all institutions to review their mission and vision statements and streamline business focus...” (Council on Higher Education, 2006a:23).
- The broadening of policy awareness retrospectively placed private providers in an advantaged position to respond to policy imperatives more systematically and meaningfully (Council on Higher Education, 2006a:26).

The findings of *HEQC evaluative study of institutional audits 2006* (Council on Higher Education, 2007a) also support the view of the management team regarding the impact of the regulatory framework in terms of the development of management structures and functions, the changing of departmental processes and procedures as well as business decisions, which add to recognition of the institution. The following findings were recorded respectively:

- ... the audit pushed higher education institutions further into developing management models which may work for some institutions but not all.” (Council on Higher Education, 2007a:70).
- [The audit resulted in] ... updating and strengthening certain policies ... and the creation of new structures (e.g. ...key positions – academic head and quality assurance coordinator – were created and filled...). In addition, ... planning for the establishment of the academic and examinations boards began. The importance of strengthening administrative systems and centralising student records had also been ... addressed... Attention was also given to the standardisation of marks and the security of diploma certificates. Finally, new institutional processes – regular staff meetings and monthly academic meetings – were introduced... the processes of reviewing programmes and in assessment procedures had been addressed (Council on Higher Education, 2007a:51).
- [The audit resulted in] ... the debates on the extent to which the institution should identify itself with national goals and act as an agent of the state...” and “... the tensions between the academic and business voices ...(Council on Higher Education, 2007a:29-30).
- It seems that one of the great benefits of audit at this institution was to develop a better awareness of the importance of evidence and to initiate a culture of documenting, storing, accessing and presenting evidence to support positions and arguments (Council on Higher Education, 2007a:25-26).

Management accommodated all these changes and provided for additional attention to the quality assurance policies and procedures. Management anticipated by adhering to all these changes recognition of the private higher education institution and its programmes would be established.

5.2.4 Manifestation of programme articulation within the higher education sector

The impact of the regulatory framework resulted in changes to the private higher education institution’s management approach from the structures to the operations, as seen in section 5.2.3. In turn, these changes impacted on the quality of the institution and should lead to recognition of the institution and its programmes. The manifestation of programme recognition and articulation, as viewed through the management team, were grouped under the following subcategories:

- The viewpoints of managers.
- Barriers to management functions.
- Benefits to management functions
- Regulatory changes in the higher education sector.

5.2.4.1 The viewpoints of managers

In general, the managers viewed programme articulation in practice to be difficult up to a point of impossibility. The registrar indicated "*... I don't think the ... regulatory framework makes provision for so-called seamless articulation, in practice it doesn't work. It doesn't work between publics, it doesn't work between privates and publics...*" The academic director supported this view and stated that "*... there is no such articulation, the institution, the public institutions they don't recognise the private institutions, they don't think that we are good enough ...*" According to the head: student recruitment it's "*... a battle to get ... although we were registered it was a battle to get all the procedures to get a child to get into honours, or ... higher teaching diploma.*" The CEO also indicated "*... there is actually very little articulation ...*" The lack of articulation among higher education institutions was viewed as a barrier to management functions.

5.2.4.1 Barriers to management functions

The majority of the managers agreed that articulation between private higher education institutions and public higher education institutions is a barrier. The academic director expressed the view that "*... the public institutions they don't recognise the private institutions, they don't think that we are good enough, they don't think that the students could go through to them and carry on where they have left off ...*" The registrar indicated that the regulatory framework was an additional barrier because it was:

... a paper exercise ... [as]... articulation between institutions can never be regulated because of article 37 of the act which says that entry into any higher education institution is determined by the institution which, in a sense, say that although the NQF stands for articulation and

equality and quality of programmes, articulation is determined on a student basis between institutions...

The academic director elaborated on the situation by explaining that articulation between private and public higher education institutions has to be negotiated with:

... the managers of the different departments, we have to go to discuss with them and give them the background, give them all the input that we've got, our tests and exams, our modules that we are doing, they want to have a look at it to see on what level it is.. but again it depends on the public tertiary education institution if they would allow our students to carry on...

Although articulation between private- and public higher education institutions has been viewed predominantly as a barrier, it appears as if there is limited amount of satisfaction to the process. The CEO indicated that:

I think articulation within the private sector will be easier handled, but to articulate from the private sector to the public universities is very difficult. At departmental level it is ... an easy task ... but at corporative level almost impossible...

The articulation of programmes is viewed primarily as a barrier by the management team. That being said there seems to be a fragment of a benefit to the management function.

5.2.4.2 Benefits to management functions

Both the academic director and the registrar agreed that articulation between private institutions is beneficial, as it is easier than the process of articulation to a public higher education institution. The reason for that is *"... because it can be negotiated easier..."* The academic director stated that *"... there are public institutions that would recognise the work that we are doing ..."* and that *"... the students could go through to them and carry on where they have left off..."*

The head: student recruitment emphasised that:

... it is easier for a registered private higher education student that qualifies and wants to articulate and want to go onto higher, like an honours degree or that road has been made easier where four five years back it was a battle to get ... although we were registered it was a battle to get all the procedures to get a child to get into honours ...

From the opinions expressed by the managers, it is evident that the recognition of higher education programmes is problematic for the managers. Therefore, possible regulatory changes to accord more recognition to private higher education institutions and their programmes should be considered by the government.

5.2.4.3 Regulatory changes in the higher education sector

Regulatory changes in the higher education sector could add to the recognition and articulation of programmes offered by private higher education providers. However, the registrar is of the view that recognition of private higher education institutions and their programmes falls beyond regulatory changes and will change as the sector grows older and not necessarily through changes to the regulatory context. The view entails that the private higher education sector is not *"... old enough to have established itself as exactly the same, at the same level as the public education system, that will probably take 20 to 25 years before that happens..."*

The findings recorded by the Council on Higher Education research team in *The impact of the Higher Education Quality Committee accreditation on private higher education in South Africa* (draft) (Council on Higher Education, 2006a) support the views of the management team regarding the lack of programme articulation in the higher education sector. The following findings were recorded respectively:

- ... the HEQC accreditation systems have not been able to forge and enhance seamless articulation between programmes and institutions, especially in relations to private/public universities vertical and horizontal

articulation of learning programmes (Council on Higher Education, 2006a:24).

- Private providers asserted that unless it is privately arranged with particular departments within specific universities, qualifications from private higher education institutions are neither readily recognised by universities nor are learners from private providers readily granted recognition of prior learning (RPL) by public higher education institutions (Council on Higher Education, 2006a:24).

The research findings as discussed in sections 5.2.1 – 5.2.4.4 in terms of the different categories and subcategories of this study, supported the research findings of the studies conducted by the Council on Higher Education (CHE), *The impact of the Higher Education Quality Committee accreditation on private higher education in South Africa* (draft) (Council on Higher Education, 2006a) and the *HEQC evaluative study of institutional audits 2006* (Council on Higher Education, 2007a). The research findings are summarised in section 5.3.

5.3 SUMMARY OF RESEARCH FINDINGS

The impact, benefits, barriers and regulatory changes in terms of the regulatory framework on the management of a private higher education institution as experienced by the managers in the case study, were summarised in a graphical representation (figure 5.1) below. Figure 5.1 also made provision for the consequences of the regulatory framework on the management team and private higher education sector.

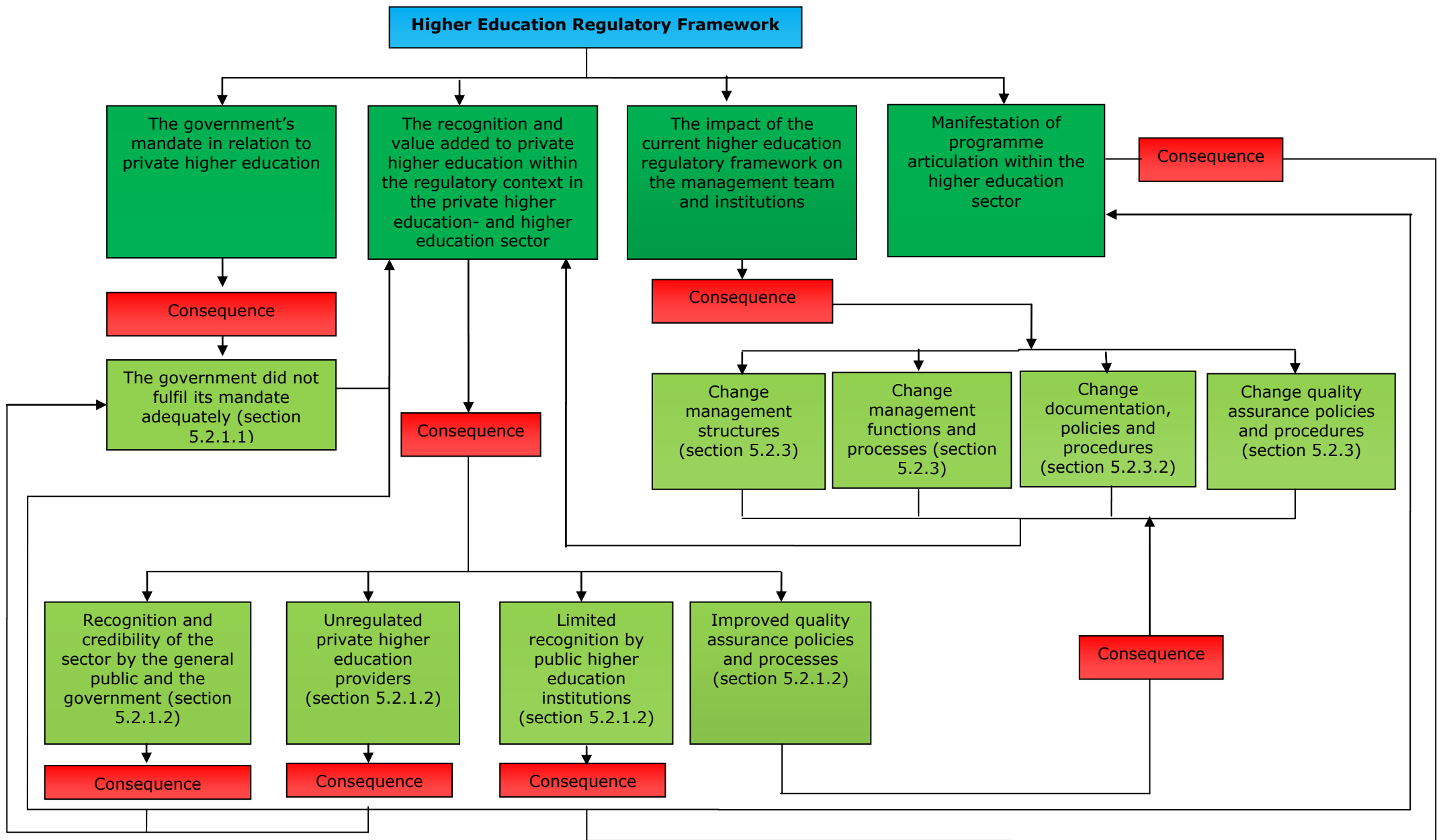


Figure 5.1: Findings of the research study

Figure 5.1 depicts the findings of the research study in a summary format. Four categories were identified through the views of the managers, as discussed in section 5.2. These categories referred to the impact of the higher education regulatory framework on the higher education sector, the private higher education sector and private higher education institutions. All four categories are linked with each other in some or other way as a result or as a consequence of the impact of one category on another. These categories are

- The government's mandate in relation to private higher education.
- The recognition and value added to private higher education within the regulatory context in the private higher education sector and higher education sector.
- The impact of the current higher education regulatory framework on the management team and institution.
- The manifestation of programme articulation within the higher education sector.

It is important to note that the government's mandate regarding higher education was instrumental in its impact on the regulatory framework, which is also the first category. The consequence of the government not adequately fulfilling its mandate in terms of private higher education is directly linked to the level of recognition of private higher education within the private higher education sector and the entire higher education sector. This leads to the second category, namely the recognition and value added to private higher education within the regulatory context in the private higher education sector and higher education sector.

The second category set out to identify the factors that add value and recognition, or not, within the regulatory context to the private- and public higher education sector. Accordingly, the consequence of the regulatory framework resulted in four factors:

- The recognition and credibility of the private higher education sector by the general public and government.
- Unregulated private higher education providers.
- The limited recognition by public higher education institutions.
- The improved quality assurance policies and procedures.

The consequence of the factor of recognition and credibility of the private higher education sector by the general public and government is that value and recognition is added to the private higher education sector and higher education sector. However, the consequence of the factor of unregulated private higher education providers is that these providers do not add value or recognition to the private higher education sector and higher education sector, but have a rather negative impact on the sector. The consequence of the factor of limited recognition of private higher education providers by public higher education institutions has a direct correlation with the fourth category, namely, the manifestation of programme articulation within the higher education sector. As a result, the consequence of the limited recognition of private higher education providers by public higher education institution manifested in the limited programme articulation within the higher education sector. The consequence of improved quality assurance policies and procedures resulted in changes to the management team's functions, processes and procedures and can be categorised into four groups:

- Change management structure.
- Change management function and processes.
- Change documentation, policies and procedures.
- Change quality assurance policies and procedures.

These four groups are interrelated and cannot easily be separated from one another. In addition, these four sub categories are also a consequence of the third category, the impact of the current higher education regulatory framework on the management team and institution. Thus, change to the management structures resulted in changes in the management functions and

procedures, ensuing in changes in the institutional documentation, policies and procedures and ultimately changes in quality assurance policies and procedures. These changes also add value and recognition to the private higher education sector and higher education sector, which is category two. From figure 5.1 it is clear that the identified categories are not only connected with each other, but are also inter correlated and that the impact of the regulatory framework within the regulatory context on the six managers is an on-going process.

5.4 SUMMARY

This chapter described the research findings after conducting individual interviews with six managers of an accredited and registered private higher education institution. The data collected regarding the managing of a private higher education institution within the current higher regulatory context in South Africa were transcribed, analysed and coded. The researcher read all the written transcripts several times to ensure that the correct interpretation was made. Importantly, the findings, obtained by the researcher in this study, were consistent with the available literature. The researcher's social constructivist research paradigm was supported by the research findings, in that the researcher had gained an understanding of the world in which the management team lived and worked, through their own words and viewpoints.

The opinions expressed by the managers appeared to suggest that the participants in this study have experienced and are still experiencing the impact of the current higher education regulatory context on the managing of a private higher education institution. In chapter six, a summary of the results, conclusions, limitations of the study as well as recommendations arising from the study will be presented.

CHAPTER 6: SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

"... a conclusion is the final part of the research paper, drawing everything together and tying it into your initial research". (Experiment-resources, 2011).

6.1 INTRODUCTION

In this chapter, the research results of the research data, as analysed in the previous chapter, are presented as a summary. Furthermore, conclusions were drawn from the research results, limitations were identified and recommendations for future study were presented. The aim of this study was to determine how to manage a private higher education institution within the current higher education regulatory context in South Africa, as indicated in the previous chapters. In chapter one, an introduction was provided together with a brief history of private higher education and the current higher education regulatory context was discussed. Chapter two provided an overview of the constraints in managing private higher education institutions within a particular legislative and regulatory framework. In turn, chapter three provided an overview of the current regulatory context of higher education in South Africa. In chapter four, the qualitative research design and methodology were described. Chapter five provided the findings of the research results, which were presented in relation to the research question. The purpose of this chapter was to present a summary of the study, to depict conclusions and to compel recommendations regarding the research results.

6.2 SUMMARY OF THE LITERATURE REVIEW AND RESEARCH METHODOLOGY

This study set out to determine the impact of the current regulatory environment on the management of a private higher education institution (section 1.5). This study started off in chapter one with a brief introduction concerning the relation between higher education and the relevant economical,

social and political factors (section 1.1). With these factors being verbalised into government policies and enacted accordingly, a brief history on private higher education in South Africa (section 1.2) and a brief history of the current higher education regulatory framework (section 1.3) were recorded. Thus, the main research question was formulated as follows: *How is a private higher education institution managed within the current higher regulatory context in South Africa* (section 1.4)? Following, the aim of this study was to determine the impact on the management of a private higher education institution within the current higher education regulatory context in South Africa (section 1.5). The motivation for the need for the study was recorded and emphasised (section 1.6). Subsequently, a review of available literature was presented in chapter two and three respectively taking into consideration the limited literature available on the phenomenon of managing a private higher education institute within the current regulatory environment (section 1.6). An overview of the qualitative research design and methodology was given (section 1.7), the terminology defined (section 1.8). The chapter concluded with the organisation of the chapters (section 1.9).

Chapter two comprised a more comprehensive literature review with a focus on the managing of private higher education within the constraints of a particular legislative and regulatory framework, which appeared to be compliance based. Against this background, the regulatory environment was specified in terms of the different legal documents, conditions and criteria that impacted on management. Compliance was initiated with the establishment of a private higher education institution, by prescribing the type of juristic person of the institution (section 2.1) and resulted in conditions and criteria to be fulfilled in relation to registration with the Department of Education (section 2.2). Compliance filtered through to the management processes and execution of the management functions, which impacted directly on the management process, such as planning, organising, leading and controlling of the resources to achieve institutional goals, through the implementation of the criteria (section 2.3). The regulatory constraints on the allocation and management of resources through the management resources process (table 1.1) were noted.

In addition, the performance aspect of the management process was measured against the compliance criteria to ensure that the eligibility of the institution was achieved in terms of the legislative and regulatory framework (section 2.3.2).

It is important to note that the higher education legislative and regulatory frameworks have a historical political context. Therefore, the literature in chapter three considered the regulatory context of higher education in South Africa and narrowed the focus to the current status of the regulatory context of higher education. Aspects considered were a review of South Africa's history and its different governments as well as the historical development of the enactment of higher education through the different governments (section 3.1). It was noted that enactment specific to higher education by the government of the day, for political reasons, occurred since South Africa was founded in 1652 (section 3.1.1 – 3.1.6). Following the democratic elections in 1994, the focus shifted to provision made for higher education in the constitution of South Africa (section 3.2) and the implementation commenced with the private higher education system with government taking a dominant role through government inducted higher education legislation by the enactment of acts and policies for higher education, inclusive of private higher education. The enactment process has been criticised in terms of the government being more engaged with new policy statements rather than with the implementation thereof (section 3.3). The current higher education legislation enactment set out to create a single coherent higher education framework addressing the inequities and inefficiency of the previous legislation (section 3.4).

The data emanating from the literature reviews provided a theoretical foundation for the direction of the research study in view of the fact that educational research, politics and decision-making are inextricably intertwined on a macro- and micro level. The study was therefore designed to determine the impact of the main research problem within the qualitative paradigm from a phenomenological point of reference and involved an interpretive approach

to the world (section 4.1). The qualitative research design and methodology allowed the researcher to explore the social implications and varying experiences and perspectives of the participants regarding the phenomenon of managing a private higher education institution in the current higher education regulatory context (section 4.2). To ensure that the participants' ethical rights were safeguarded during the study, ethical measures such as informed consent, anonymity, confidentiality, deception and privacy were adhered to (section 4.2.1.1). The single instrumental case study type method was deemed appropriate for this study and the management team was identified as a heterogeneous fixed and suitable sample for the case study method (section 4.2.2.1). Furthermore, individual interviews were considered to be appropriate to explore and understand the attitudes, opinions, feelings and behaviour of the participants. The individual interviews were held at the office of the private higher education institution at a time and date suited to each participant. Field notes were expanded after the individual interviews and the recorded interviews were transcribed (section 4.2.2.2). Subsequently, the research data were analysed according to Tesch's eight steps of descriptive data analysis (section 4.2.3). Accordingly, the data were evaluated to establish the trustworthiness of the data collection and data analysis processes. In this regard, Table 4.1 depicted the application of the four criteria for the establishment of trustworthiness (section 4.2.4).

6.3 SUMMARY OF THE EMPIRICAL INVESTIGATION

The transcribed individual interviews and field notes were analysed and the emerging categories and similar categories were listed and clustered together under a fitting descriptive term (section 5.1). The following descriptive categories emerged:

- The government's mandate in relation to private higher education.
- The recognition and value added to private higher education within the regulatory context in the private higher education – and higher education sector.

- The impact of the current higher education regulatory framework on the management team and institution.
- Manifestation of programme articulation within the higher education sector.

After studying the research results of each category, specific conclusions were reached. Each of the four categories' conclusions were summarised and discussed in sequence.

6.4 CONCLUSIONS OF THE STUDY

6.4.1 Government's mandate in relation to private higher education

The government acknowledged the indispensable role of private higher education in the higher education sector and indicated their overall mandate towards private higher education in terms of the regulation of private higher education by means of a single higher education system without suffocating private higher education through over-regulation (section 2.1) (Department of Education, 1997a:26; Department of Education, 1997b:34-36). However, the regulatory framework for the governance and management of institutions does not prevent the possibility of over-regulation or interference through the regulatory framework. In addition, constant changes to the regulatory framework left private higher education providers unsure of the current legislative status and their position (section 1.3). For that reason, the viewpoint of managers was that the government either did not fulfil its mandate or fulfilled it inadequately in terms of private higher education. These views were based on management's experience concerning the recognition of private higher education providers through the regulatory process and the provision of applicable regulatory information from the government to private higher education providers. The fulfilment of the government's mandate was viewed to be applicable towards the recognition of private higher education institutions, particularly with regard to the function of regulation and control, but it did not extend to the development of the private higher education sector.

Furthermore, the respondents expressed the view that the government gave greater recognition to public higher education providers than private higher education providers. The latter were forced to gain recognition from the government by means of their own intervention by attending regulatory meetings and sitting regulatory committees (section 5.2.1.1). These views manifested in the management functions as barriers, which were the inconsistency of government's practice to regulate and control all the role-players in the higher education sector and the lack of student financing for private higher education students (section 5.2.1.2). However, an increase in communication from the government in terms of the government's mandate towards the private higher education institutions was viewed as a benefit to management (section 5.2.1.3).

6.4.2 The recognition and value added to private higher education within the regulatory context in the private higher education – and higher education sector

The implementation of the regulatory framework added value to the private higher education sector through ensuring that institutions are financially viable, have the necessary physical and human capacity and that their academic offerings meet acceptable quality standards (section 1.3) (Council on Higher Education, 2003:1). The impact of the regulatory context on the private higher education sector was valuable and added to the recognition and credibility of the sector by the general public and government, as viewed by the managers. Recognition was achieved through the dividing of private higher education providers into recognised legal and illegal higher education providers respectively. On the other hand, the recognition of this sector was inhibited by the resistance experienced towards the private higher education institutions by the Department of Education and public higher education institutions. From there the view that the value added was a paper based exercise due to the one regulatory framework, but it had limited market value for the private higher education providers.

A private higher education institution is eligible to provide higher education if it can provide proof of institutional registration with the Department of Education, programme registration on the National Qualifications Framework (NQF) by the South African Qualifications Authority (SAQA) and fulfilment of the higher education quality assurance function through institutional- and programme accreditation (section 2.1) (Council on Higher Education, 2003b:1; Department of Education, 2004a:1-2; Department of Education, 2008a:5). Value was added in terms of private higher education institutions being able to present their Department of Education registration number and which proved that they were legal. This was accomplished by adhering to the Council on Higher Education's programme and institutional accreditation- and audit criteria, which ensured credible quality assurance processes through its nature and extent and the annual year reporting to the Department of Education. In contrast, the view was expressed that the policy focussed more on the process and procedure side and not on the practice itself (section 5.2.2.1).

To management, the maintaining of the private higher education institution's recognition was viewed as a barrier to the management function, as there were private higher education institutions that were not accredited or registered. The view was also expressed that private higher education was not yet perceived to be equal in status to public higher education and in many instances and was only perceived to be an option of a second choice for students because they could not get access to public higher education institutions. In addition, neither private higher education institutions' quality assurance systems and procedures nor the quality of teaching and learning were recognised, which impacted directly on the articulation of students between institutions (section 5.2.2). Despite the foregoing comments and viewpoints, some benefits were experienced by management, in that staff members came to realise that the enforced quality assurance measures actually improved the quality of what they did and they could see that it had a tremendous positive impact on the institution and the management (section 5.2.2.4).

6.4.3 The impact of the current higher education regulatory framework on the management team and institution

The higher education regulatory framework impacted on the private higher education institution's mission statement, in that the statement should provide for effective strategies, sufficient human resources, financial resources and infrastructural resources for delivering and assessing of the institution's learning programmes (section 2.3) (South African Qualifications Authority, 2001:22; Council on Higher Education, 2004b:6; Council on Higher Education, 2004c:7; Council on Higher Education, 2007b:12). Furthermore, the private higher education institution is obligated to declare its commitment formally to maintain the necessary academic, administrative and support staff, with appropriate academic / professional qualifications and experience to meet and sustain the objectives of each programme (section 2.3.1.1). Therefore, the managers felt that the regulatory framework impacted on the management structure and functions of the institution. Management structures and functions were altered to address the quality assurance processes and procedures, which impacted on marketing documentation, registration processes, student records, programme development and certification of students. Regarding the business aspect, discussions were less entrepreneurial due to the constraints of the regulatory framework (section 5.2.3.1). In spite of this, government documents do not suggest direction or an alignment towards the for-profit and business-orientated approach of a proprietary limited company (section 2.3). This posed a barrier to management to acquire capital as the regulatory framework in a way excluded the fact that higher education private institutions were also businesses that had to meet the requirements of appropriate acts to be profitable (5.2.3.2). For the managers, the benefit of the impact of the regulatory framework lay in the guidelines in terms of which they could work to establish recognition for the institution and its programmes (section 5.2.3.3).

6.4.4 Manifestation of programme articulation within the higher education sector

By adhering to the parameters and criteria of the programme development procedure, successful students will receive an accredited qualification recognised by the higher education sector, the labour market and society, both nationally and internationally. This will allow the student to articulate with other programmes or with other career pathways (section 2.3.2.2) (Council on Higher Education, 2004c:8; Council on Higher Education, 2004a:6; Council on Higher Education, 2007b:12). However, programme articulation was viewed by the managers to be difficult up to the point of articulation not existing in practice (section 5.2.4.1). Programme articulation between private higher education institutions and public higher education institutions was therefore viewed as a barrier. In addition, the Higher Education Act made provision for public higher education institutions to self-determine entry into the institutions. Therefore, articulation between private and public higher education institutions needed to be negotiated (5.2.4.2). Instead, articulation between private higher education institutions was viewed as a benefit as it is easier to achieve (section 5.2.4.3). These conclusions provided for the foundation for the recommendations that could be used for further research studies by all higher education role-players.

6.5 RECOMMENDATIONS

The following recommendations were founded on the research findings and conclusions derived from the views of the managers who were the participants in the study.

6.5.1 Recommendations emerging from the study

Based on the managers' views with specific focus on the barriers, the following recommendations emerged from the study:

Recommendation 1: The government's mandate towards private higher education

- The regulatory framework made provision for the private higher education sector (section 1.6) and acknowledged the indispensable role of private higher education in the higher education sector (section 2.1). Nonetheless, the government's mandate towards the private higher education sector was unclear (section 5.2.1.1). Therefore, the government should develop a policy in which its mandate towards the private higher education sector is outlined.

Recommendation 2: Strategy to address the governance of illegal higher education providers

- The intended purpose of the regulatory framework is to regulate higher education (section 1.3). However, the implementation of the regulatory framework by the government concerning all role-players in the higher education sector is inconsistent (section 5.2.1.2). In addition, the maintaining of private higher education institutions' recognition is problematic due to the negative impact of the illegal higher education role-players (section 5.2.2.2). In spite of this, the regulatory context indicated the need to ensure the sustainability and expanding role of private higher education providers (section 1.6) and their indispensable role in private higher education in the higher education sector (section 2.1). For this reason, the government should draft a strategy to address the governance of illegal higher education providers.

Recommendation 3: State funding for private higher education students

- Private higher education providers generate funding from tuition fees and are not subsidised by state funding (section 2.3.2.5). Accordingly, private higher education students do not have access to student funding (5.2.1.2).

Thus, the government should provide access to state funding to all students who are eligible for higher education studies and who undertake such studies at registered and accredited private higher education institutions.

Recommendation 4: Government's facilitation and promotion process to recognition the private higher education sector

- Recognition of private higher education providers by the government, the public higher education sector and the general public is complex as registered and accredited private higher education institutions are not perceived to be equal to public higher education institutions (section 5.2.2.2). This added to the almost non-existence of articulation between private higher education institutions and public higher education institutions (section 5.2.4.2). Even though government policy noted that the private higher education providers were relatively well developed and able to compete with the public sector and/or play a complementary role (section 3.4). Therefore, the government should facilitate and promote the recognition process of the private higher education sector.

Recommendation 5: Review business concepts in current regulatory framework

- The current regulatory framework hinders the business side of a higher education institution (section 2.1, section 2.2, section 2.3, section 2.3.1, section 2.3.1.2, section 2.3.2.1, section 2.3.2.4 and section 5.2.3.2). The government should review the current regulatory framework to make provision to allow private higher education institutions to operate within the commercial environment applying sound business principles.

6.5.2 Recommendations for further research

Based on the study, the researcher recommended that further research be undertaken on the following topics:

- An outline needs to be provided regarding the government's mandate to govern private higher education in such a way that equality between public- and private higher education is established (section 1.6, section 5.2.1 and section 2.4).
- Criteria need to be determined that would facilitate the recognition of private higher education institutions by the government, public higher education institutions and the general public (section 1.6, section 2.1, section 5.2.2, section 3.3 and section 2.4).
- An in-depth study on the impact of the current regulatory framework on the private higher education sector in terms of the management team needs to be undertaken (section 2.1, section 2.2, section 2.3, section 2.3.2 , section 2.3.1.1 , section 2.3.1.2 , section 2.3.1.3 , section 2.3.1.4, section 2.3.2, section 2.3.2.1, section 2.3.2.2, section 2.3.2.3 section 2.3.2.3, section 3.3 and section 5.2.3).
- A workable framework to ensure seamless articulation between private and public higher education institutions needs to be developed (section 5.2.4 and section 2.4).

Further research is recommended to verify the findings of the current study in order to contribute towards the literature on the phenomenon.

6.6 LIMITATIONS OF THE STUDY

One limitation to the study was that only one private higher education institution was used for this study. It is also important to point out that the

management team consisted of six managers, which is an appropriate number for the type and nature of the institution. Other private higher education institutions, which are either bigger or smaller and which might have more or fewer managers and which, by implication, could have more and/or fewer specialist management functions could have experienced the impact of the higher education regulatory framework differently. Additional research over a wider demographic area may also have impacted on the outcome of the research as private higher education providers in demographic areas closer to the regulatory bodies may have had more frequent interaction with such bodies, as such interaction would have been easier due to proximity rather than interaction of those further from the regulatory bodies.

The period during which the study was undertaken, was approximately ten years after the accreditation process had started and the institution in question had been involved with the accreditation process for the same period of time. Accreditation is a continuous process in private higher education and, as such, has no before and/or after period. Existing institutions had to make accreditation-based management decisions continuously.

6.7 SUMMARY

This study set out to determine the impact of the current regulatory environment on the management of a private higher education institution. A qualitative research design and methodology was used which allowed the researcher to explore the various social experiences and perspectives of the participants regarding the phenomenon of managing a private higher education institution in the current higher education regulatory context. The six managers of an accredited and registered private higher education institution participated in the individual interviews. The research study adhered to ethical principles and was evaluated for trustworthiness.

The study found that there is no clarity regarding the government's mandate in relation to private higher education and is therefore perceived to be

inadequate or not fulfilled. Although the implementation of the regulatory context added value to the private higher education sector and credibility to private higher education institutions, limited recognition by the government, public higher education institutions and the general public was still experienced. After all changes and legislation, the impact on the managers was effected through changes and alteration to the private higher education institutional management structures and –functions as well as changes to the processes and procedures to adhere to quality assurances criteria. This limited recognition added to challenges of programme articulation between private higher education institutions and public higher education institutions. Recommendations for further study were outlined and the limitations of this research recorded.

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APPENDIX A

Researcher: Marelize Ellis (Telephone number: _____)

Dear participant,

Thank you for agreeing to participate in this study, which will take place from 28 March 2011 – 8 April 2011. This form outlines the purpose of the study and provides a description of your involvement and rights as a participant.

The aim of the study is to explore and describe the experiences of the management team of a private higher education institution who has to manage the institution within the current higher education regulatory context. In this study, I wish to learn more about your experiences regarding managing the institution, applying business principles and implementing the higher education regulatory framework. You have specifically been selected for participation in this research study based on your privileged knowledge of the regulatory environment and as your institution being one of the oldest private higher education institutions in South Africa.

The methods for collecting information that will be used in a report about the lived experiences of the management team of a private higher education institution within the current regulatory framework are explained below.

You are encouraged to ask questions at any time about the nature of the study and the methods that I am using. Your suggestions and concerns are important to me; please contact me at any time at the telephone number listed above.

The final report on this data will be submitted as a dissertation for my degree. In addition, I will make a summary report available to all the research participants. I guarantee that the following conditions will be met:

1. Your real name will not be used at any point of the information collection process, or in the final writing up of the data.
2. The completed transcripts and field notes will be treated as highly confidential materials. Only I, as the researcher, will have access to the raw data. Your name will not appear on the questionnaire.
3. Your participation in this research is voluntary. You have the right to withdraw at any point of the study, for any reason, and without any prejudice and the information collected and records and reports written will be turned over to you.
4. You will receive a copy of the final report before it is handed in, so that you have the opportunity to suggest changes to the researcher, if necessary.

Do you grant permission to be quoted directly? Yes _____ No _____

I agree to the terms

Respondent _____ Date _____

I agree to the terms:

Researcher _____ Date _____

APPENDIX B



INTERVIEW PROTOCOL PROJECT:

Managing a private higher education institution within the current higher regulatory context in South Africa.

INTRODUCTION

My name is Marelize Ellis and I am currently busy with my MEd studies at the University of South Africa. I have decided to conduct a qualitative research study, which means I will investigate the lived experiences of selected people in a certain environment. Because I have worked in the private higher education section for the past eleven years, I am interested in the topic under research.

The aim of the study is to explore and describe the experiences of the management team of a private higher education institution that has to manage the institution within the current higher education regulatory context. In the process, I wish to learn more about your experiences regarding managing the institution, applying business principles and implementing the higher education regulatory framework. You have specifically been selected for participation in this research study based on your privileged knowledge of the regulatory environment and as your institution being one of the oldest private higher education institutions in South Africa.

POSITION OF INTERVIEWEES

This study involves participating in an individual interview and talking about your experiences regarding managing the institution within the current higher education regulatory context. This individual interview will last approximately 20 - 30 minutes and will be audio typed for verification of the findings.

TIME OF INTERVIEW:

DATE:

PLACE:

INTERVIEWER:

INTERVIEWEES:

QUESTIONS THAT WILL BE DISCUSSED

1. How did the current higher education regulatory framework impact on the management of your institution?
2. How valuable was the impact of the regulatory context on the private higher education sector?
3. What value has been added to the recognition of private higher education within the regulatory context as part of the South African higher education sector?
4. What is the nature and extent of the impact of the regulatory context on the quality assurance systems and processes of a private higher education institution?
5. What value has been added to enhance the quality of teaching and learning in private higher education institutions?
6. How has programme articulation manifested itself in the higher education sector within the regulatory context?

7. How has the government fulfilled its mandate in relation to private higher education? (Council on Higher Education 2006a:8).

Thank you for your participating in this interview. All records obtained during this study will be regarded as confidential. Results will be published or presented in such a fashion that you and your institution remain unidentifiable. (Source: Adapted from Creswell, 2007:136).



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APPENDIX C

Q : Okay how do you experience the impact of the current regulatory, the higher education regulatory framework on the management of your institution?

A : I think the framework, the impact, the impact of the framework on the management of the institution is reflected in the fact that management structures necessarily had to adapt to meet with requirements of various acts and various regulations inclusive of the companies act, the higher education act and also the FET colleges act which in a sense prescribes how management of the higher education institute should take place. Which in a sense makes it difficult because the higher education act in a way excludes the fact that higher education private businesses are businesses and not only institutions, so it does not make business sense to management a private higher education institution in the same way that you would management a public higher education institution because public higher education institutions are not concerned with business issues or business decisions. The framework impacted in that particular sense that within this framework that the institutions also have to meet the requirements of the education act and all other appropriate acts but also run a business that is profitable, because being profitable is part of the pre-requisites of maintaining registration.

Q: Okay. How valuable was the impact of the regulatory context on the private higher education sector?

A : I think it was extremely valuable in the sense that it divided the sector into honest real higher education institutions that were, that strive towards providing good education on the other side those who were only in it for fast buck, to make a lot of money quickly, they were faced with the problems of the regulatory framework within which could not take place. So I think the sector in its whole benefit from it tremendously from the regulatory framework, the enforcement of the regulatory framework onto the sector. It also lead to a sector that is now perceived to be, or can be perceived to be equal to a public sector in terms of quality to delivery that would not have taken place if it wasn't for a regulatory framework.

Q : The next question actually adds to that one in terms of what value has been added to the recognition of private higher education within the regulatory context of the South African Higher Education?

A : I think the value added is a paper based value in the sense that the institutions are on paper treated as equal and regarded as equal in terms of the fact that there is only one higher education act for public and private institutions but in the perception of the population, private higher education is not yet perceived to be equal to public higher education, in many instances it is still perceived to be an option of a second chance where learners will go, or students will go because they could not get into public higher education. In some senses it is still perceived to be a money making enterprise only although on paper the qualifications offers by the public sector and the private sector are perceived to be of an equal value. I think that private higher education sector is now approximately ten years old, I don't think it is old enough to have established itself as exactly the same, the same level as the public education system, that will probably take 20 to 25 years before that happen, so there is a value added in the sense that on paper that you can now make statements to the effect that you are equal to public institutions but the statement to that effect is, does not necessarily change the perceptions of people.

Q : Okay, so my understanding from what I am hearing from you is that the value is actually very limited in practice.

A : In practical terms the value is limited. It has got a limiting market value but it is not, the perceived value is not yet the same as public institutions.

Q : What is the nature and extent of the impact of the regulatory contact on the quality assurance systems and process of higher education. I know you mentioned it earlier a little bit?

A : I think the regulatory context enforced in a sense fairly rigorous quality assurance systems onto private providers in that providers have to report regularly on certain activities that takes place in their environment, so that in a sense enforces a quality assurance externally through the Council of Higher Education but I do believe also that the Regulatory context has also brought about tremendous changes to quality assurance and the processes in the

organisations of their own free will. I think people come to realise that the enforced quality assurance measures actually improved the quality of what they do and they can see that, and I think in that sense it made a tremendous positive impact on the institutions.

Q: What value has been added to enhance the quality of teaching and learning, we have just spoke about the quality assurance but the teaching and learning of private higher education?

A : I doubt, I am complete honest to say I doubt that the quality of teaching and learning in private higher education institutions is influenced or have been influenced, has been influenced by the regulatory context. I very much think that even in the regulatory context it is possible for private higher education institutions to report good quality teaching and learning without that actually taking place because the framework of quality assurance, especially the audit framework concentrated on processes and procedures and not on teaching and learning. Audits never dealt with actual teaching and learning interventions in classes neither does accreditation. Accreditation deals with programmes structures and things like that, it doesn't deal with actual teaching and learning, so I don't think that the regulatory framework has an aim to change teaching and learning or to improve teaching and learning, it might be a secondary aim of hidden curriculum but I don't really think you can actually divorce the processes of teaching and learning from the quality assurance processes that are imposed on institutions. I think it is possible even under this regulatory framework to still have bad teaching in classrooms.

Q : So in terms of what I am hearing is the value hasn't been that great in terms of teaching and learning?

A : No, I don't think the regulatory framework in any sense contributed really to teaching and learning because basically the regulatory framework is managed and dealt with at managerial level, not in classroom level.

Q : Would you say in terms of what this value of teaching and learning, is that not the reason why public higher education institutions are still preferred or is it just a perception ?

A : I think it is just a perception, I think the quality of teaching and learning in the public higher education institutions is also in many cases doubtful, and it is

not regulated, it depends on the institutions own internal processes, the external framework of quality assurance doesn't regulate quality of teaching and learning the in public institutions either. It deals with processes and procedures and documents and policies and stuff like that, it doesn't address what really goes on in the classroom. It doesn't address, it only addresses quality if teaching and learning in the sense that it prescribes the level of qualifications of the lecturers, but it doesn't address the issue of adequate timetabling, adequate weighting in terms of practical work, quality of lectures, variation of delivery, either lectures or small group discussions, it doesn't prescribe that at all, it is suggested may be in workshops, but it doesn't prescribe it. So it actually has as far as I am concerned not a significant impact. It is believed that the new approach to auditing will now address teaching and learning now directly and not processes anymore, that has been, in a meeting we had with the CHE the other day, it was, we were told that the focus on the next round of quality assurance interventions will be on the classroom, on teaching and learning, not on institutional profiles, not on policies or anything, but the quality of teaching and learning in assessment in the classroom. It will be a pure academic audit not a procedural or process and that I think, I think the powers that we came to realise that their interventions doesn't really address the core issue in the classroom.

Q : Would that mean then that the regulatory framework or the criteria in terms of audit is going to change?

A: Yes they are busy revisiting those criteria, the audit criteria will be revisited.

Q : How is programme articulation manifest itself in the higher education sector within the regulatory framework?

A: Programme articulation again, there my opinion it is a paper exercise, articulation between institutions can never be regulated because of article 37 of the act which says that entry into any higher education institutions is determined by the institution which in a sense say that although the NQF stands for articulation and equality and quality of programmes, articulation is determined on a student basis between institutions, so I don't think the, I think the framework, the regulatory framework makes provision for so-called seamless articulation, in practice it doesn't work. It doesn't work between

publics, it doesn't work between privates and publics, it is probably easier between private and privates because it can be negotiated easier, I don't think any framework can actually force institutions to allow a student seeing this articulation. Europe is trying it at the moment, it doesn't work, they've got other problems there but it doesn't really work either.

Q : Okay. How has the government fulfilled its mandate in relation to private higher education?

A : I think the mandate is only fulfilled in the sense that the regulatory framework and legislation make provision for equality between public and privates. The post-public and private higher education is governed by the same legislation, in that sense I think the government has fulfilled his mandate. The problem will always remain in terms of funding, student funding, students in private higher education has no access to state students loans or state funding which means that the government doesn't really perceive private higher education as an equal option for learners, they, perhaps in, I don't know it is speculation but they still see it as a luxury option as its is only for the rich although the biggest need for access to higher education lies with the poor and the public institutions can't provide that access. The government doesn't make funding available for students to enter private higher education, that sense the mandate is not fulfilled, it is not, we are not all together certain what is the mandate of the government in terms of private higher education, on paper, yes legislation wide, yes private higher education or public higher education are regarded as equal but access to private higher education is determined by the wealth of the learner or the student and not by financial support from the government. It is not certain whether a mandate of the government to have, to give students access, equal access to higher education in that sense is fulfilled.

Q: Anything you would like to add to any of the questions, or want to ask questions?

A : No I don't think so, my general, just a general comment is that I do believe that the legislative framework and the regulatory framework in which we work, private higher education work over the last ten years has lead to a certain maturation of the sector, I think the private sector is stable now, it has

matured and it will move on to a next level of provision in South Africa that will bring it closer perception wise to public higher education, I think so. Hadn't it been for the regulatory framework, things could have been completely different.

Q: Thank you very much.

A : Thanks