

Appendix F: A Review of Governance in Landex Institutions

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*Allan Schofield
Dr David Llewellyn*

Working together in partnership



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- 1 In order to sample governance arrangements across one part of the FE college sector, a survey was undertaken with the cooperation of Landex¹. This land based sector group has 33 members in England of which five are HEIs, leaving 28 FE colleges to be surveyed. Replies were received from 13 (46 per cent response), and are interesting in that they suggest a diverse approach to some - but not all - aspects of governance, despite all institutions working to the same instruments and articles. None of the variations noted below appear to be easily correlated to Ofsted judgements on the quality of governance, management and leadership.
- 2 Overall, the responses in the sample appear to indicate a sector that is broadly confident about the quality of its governance and that feels it has demonstrated considerable enhancement in governance in the past few years.

Basic Data

- 3 In 2008 the governing bodies (corporations) of the responding colleges met with different levels of *frequency*. Three met on four occasions (the minimum required under the standard instruments and articles is three), three on five occasions, three met six times, two met seven times, and two met on eight occasions of which one met additionally at three awaydays. However, the pattern in 2008 was complicated by some boards having additional special meetings to consider issues associated with capital funding.
- 4 The frequency of meetings does not appear to be correlated with the *size of the associated committee system*, with more than half of respondents reporting the existence of five core committees: finance (sometimes with additional functions including general purposes); audit; search; remuneration; and quality and standards (sometimes found with a different title). The maximum number of committees reported was eight. Other committee functions reported concerned: HR; equality and diversity; health and safety; student affairs (separate from quality and standards); a governors management committee; appeals; estates and facilities; a farm advisory committee; and in one case campus committees for each of the four locations of the college concerned. One college noted the existence of a separate enterprise committee responsible for commercial activities.
- 5 The *size of the corporation board* varied across the sample (eight had 19 or 20 members, four had 17 members, and the smallest had 15), and the *periods of office* of members also varied considerably. Of the sample, eight have adopted fixed periods of four years (in one case preceded by an initial two year appointment), mostly renewable for only one further period of four years except in exceptional cases. Three colleges applied variable periods of office, and explicitly allowed renewal without limit, a practice defended by one college in that although "the board acknowledges that two terms of four years is the recommended maximum period it believes that it should have the right to appoint beyond that if the member concerned suits the criteria defined by the board". The survey asked colleges to identify the period of the current longest serving member, and the answers in order of length were: 30 years; 16; 15; 14; and 12. Some respondents justified such lengths of service by reference to the special contribution of board members.

¹ See www.landex.org.uk

- 6 The *recruitment of governing body members* appears to pose varying challenges for Landex members, with some reporting difficulties in recruiting independent governors of suitable experience and others not. Most institutions report the use of skill sets to help select independent governors, typically based on functional expertise (e.g. a qualified accountant). A range of recruitment methods is described (press advertising - in one case specifically in the BME press to encourage diversity in membership; radio advertising; targeted mailings to relevant professional groups) but the most common method (also described as the most successful) is through word-of-mouth and existing professional board level contacts.
- 7 All corporations surveyed provided some form of *training and development* for their governors. Induction is common, with some colleges producing induction packs. A range of scheduled internal development events is reported, although frequency varies between one and three events a year. Some colleges explicitly use the corporation self-assessment to indicate development needs. Externally, the use of regional AoC events is generally welcomed, and the value of governors interacting with others from different institutions recognised. However, participation in national events is reported to be limited, primarily because of time, location, and cost. Some colleges note particular issues in getting independent governors to undertake external development activities.

Clerks

- 8 The survey sought information about the way the *role of the clerk* was undertaken and the main challenges they face in supporting the governing body. In all cases the post is undertaken on a part time basis, but there are variations: an internal part time post; an externally contracted position; or an internal post combined with another role. The time spent on the role is reported as varying between 14 hours a week and .8 of an FTE. Several respondents noted that where clerks were internal appointments they normally reported to the corporation chair and not management.
- 9 Respondents were asked what were the main *codes of guidance* regularly consulted by the clerk to advise the corporation. All noted the importance of instruments and articles and standing orders, and, in addition, most consulted additional sources such as the LSC audit code, the financial memorandum, the Eversheds model code of conduct, and the usefulness of the JISC-based clerks network. One institution also reported the use of good governance practice guides from other parts of the public sector.
- 10 In supporting corporations, respondents noted that *clerks face a number challenges* including: the provision of information to governors in a timely and comprehensible way; avoiding some governors becoming over-involved in management or operational issues; keeping up to date with developments with implications for governance; a lack of national support materials and briefings; ensuring compliance with regulatory and compliance requirements; and ensuring effective communication of corporation activities. These challenges may be exacerbated by the time available to clerks to undertake their roles and the seniority of levels of appointment.

Current Board Effectiveness

- 11 The survey asked several questions relevant to the current effectiveness of governing bodies. Although two respondents noted little change, most identified significant *enhancements in governance* in the past five years. Whilst these varied between institutions, they included: strengthened governance process; the introduction of schemes of delegation; a much higher level of understanding by governors of their role; an increased focus on quality and learner outcomes; attention to specific issues such as sustainability, equality and diversity, and child protection; more explicit approaches to determining strategy with associated performance indicators; and the streamlining of information presented to the corporation.
- 12 In order to review the *effectiveness of governance* some Landex members report going further than using the annual LSC self-assessment. For example, one reports an evaluation of each meeting of its board and committees, another uses an online toolkit to measure against the Governance Standard for Public Services², and a third publishes the outcome of its own annual effectiveness review in its annual report. The value of the LSC self-assessment process is contested by some Landex members as being overly prescriptive and focusing to much on procedure rather than outcomes.
- 13 The survey sought information on how the governing body demonstrated to its local community the *public benefit* it provides - an increasingly important question given the policy of the Charity Commission to highlight public benefit as a test of charitable status. Some respondents recognised that demonstrating this was a challenge, and although substantial activity took place in building links with the community that more needed to be done. There was also a difference of view in responses about whether this was solely a management task, and if not then what the role of the corporation might be. Others saw a significant role for the board, including: encouraging communication strategies with local communities; reporting widely on relevant activities (both in an annual report and elsewhere); and undertaking an analysis of the economic impact of their college in the local community.
- 14 Almost all responses noted the difficulties caused to effective college governance by aspects of the current funding and regulatory structure. The problems about capital funding were cited as typifying this, but there were frequent observations about over-regulation, a lack of trust, a lack of consistency in some funding and regulatory requirements, and the difficulties of ensuring effective risk oversight in the context of responding to short term initiatives.
- 15 Overall, some Landex members were confident enough about their governance to offer a number of examples of good or interesting practice to other members of the Group, and these included:
 - "We now plan over seven years. The corporation sets out for management each year its risk appetite ie how far it is prepared to allow shortfalls against each main objective. Our annual report is full and provides a high degree of transparency about our plans and accountability for our performance against them."

² See www.opm.co.uk

- "Our committee self-assessment and meeting evaluation forms. Our online annual assessment. A structure to the agenda to focus on the strategic."
- "Learner summit held during governor development day allowing learners to interact with governorsAnnual board performance questionnaire followed by action plan. Farm advisory committee with co-opted specialist input (care not to engage in management)."
- "Focused key performance indicators and governance targets."
- "Governor participation on non-corporation committees is quite unusual (particularly as it does not seem to have caused difficulties with governance/management boundaries) for example, one governor sits on the college risk management committee, and then feeds this through to his role on the corporation's audit committee and finally through to the corporation itself. The governor's independent eye is maintained throughout and has greatly contributed to the college's improving risk maturity."
- "Developing a governor extranet at present which governors can opt in or out of to try and reduce paper and information overload."
- "The creation of campus committees to advise the board on strategic issues affecting local communities and to monitor performance on behalf of the board."
- "Peer appraisal systems conducted by free online survey."

Taken together, these suggest substantial innovation is taking place, the results of which deserve to be shared more fully within Landex.

The Future

- 16 The survey sought information on the future governance challenges facing Landex members, particularly those arising from '*Machinery of Governance*' changes. Overwhelmingly, responses indicate anxiety about the implications of such changes and the current ambiguity concerning issues such as relationships with local authorities, mixed funding, and the implications of shared regulation. As one typical response put it, the main future challenge is "being clear about which body is responsible for what and who controls policy and funding. It is not yet clear whether shared regulation will bring any real benefits." Some respondents went much further and whilst being critical of much LSC practice saw little merit in the proposed reforms, for example "we believe the overlaying of public and private governance regimes - and the bureaucracy and additional demands that go with them - creates muddle, complexity, and duplication of purpose." The same response continued that the corporation had difficulty "with the concept of a non-statutory sectoral body seeking to regulate our business, and our belief that this is both inappropriate and open to legal challenge." Two responses also noted the ambiguity caused by possible policy changes associated with the outcome of the forthcoming general election.
- 17 Such reactions sit alongside related concerns over the *strategic challenges* facing corporations, and amongst the issues cited were: the challenges of responding to short term funding initiatives whilst ensuring the achievement of long term strategy; taking account of the danger that the particular features of land-based provision may not be recognised within regulatory and funding frameworks; informing governors about the strategic implications of changes in both national and local policy; the risk oversight challenges associated with governance at a time of significant change; the impact of

demographics; and, of course, for some colleges the impact of the capital building programme debacle. In responding to such strategic challenges several colleges noted the importance of corporations defining the information they need to monitor institutional performance and achievement, and to challenge management information effectively and constructively rather than passively accepting what is provided.

- 18 Similar concerns were identified in relation to future challenges for corporations in ensuring the *quality of provision*. Overwhelmingly financial uncertainty dominated responses, with real concerns that a combination of the new funding approach, coupled with (in some cases) possibly unhelpful local authority attitudes and likely public expenditure reductions would all combine to challenge financial health and sustainability.
- 19 Such issues raise a number of challenges for Landex members about the future *membership of corporations*, and whether remuneration would assist or not in meeting them. For some - not all - respondents the "recruitment of high calibre governors is likely to remain a challenge" whereas for others "governor commitment and participation is at such a high level, I think the challenge here will be to persuade some individuals to eventually step down". Some others highlight the need to recruit a more diverse governing body to reflect the communities in which they operate, and the challenges of doing so. The responses indicate almost no support for the remuneration of governors and little for the remuneration of chairs, a typical response being that "paying governors will change the motivation, may facilitate participation of minority groups, but is unlikely to generate large numbers of high calibre governors who are capable of operating at board level and have a passion for education". However, one response made the case for institutional freedom in deciding upon modest remuneration even though they did not wish to adopt it themselves.

Contact Details:

as@highered.powernet.co.uk