

A Review of Strategic Leadership and Accountability in Work-Based Learning

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Working together in partnership



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Introduction

In October 2009 a major study was published by LSIS and the AoC (and funded by the Department for Business Innovation and Skills), which reviewed governance and strategic leadership in the whole of English FE¹. One part of that report (Appendix D) specifically addresses strategic leadership and accountability in non-FE college-based work-based learning providers (WBL). (Governance in relation to college-based WBL provision is considered in the main report.) However, the comprehensiveness of the report in a very diverse FE system means that, in practice, it is unlikely to be read by most of those involved in governance in the WBL community. Therefore this summary report has been produced to provide easier access. It consists of two parts, which have been extracted from the main report:

- First, it summarises some of the relevant contextual information which informs understanding about governance throughout FE and which has indirect implications for WBL. In doing so the summary suggests some reasons why the particular governance issues in WBL might not be readily understood by those in other sectors of FE.
- Second, it reproduces Appendix D of the main report as a substantive analysis of accountability and strategic leadership in the WBL sector. This makes only one recommendation specific to the WBL sector which is that "Possible further research on strategic leadership in the work-based learning sector needs to be considered alongside the implications of the machinery of government changes once these are known. The starting point for this might be discussions with providers and the Association of Learning Providers at any dissemination event on this study held for the sector".

Most of the recommendations in the full report concern the colleges sector, but it makes three other recommendations which are relevant to all sectors of FE including WBL. They are:

- As a matter of urgency greater clarity should be given to providers on how the governance implications of adopting the machinery of government changes will be addressed.
- Information on innovative practice in governance in the area of local engagement and 'place-shaping' and the implications for providers should be collected and disseminated.
- A substantial process of dissemination of the findings of the report should be undertaken as soon as possible.

Finally, the main report considers a number of future challenges to governance and strategic leadership in FE caused by such issues as machinery of government changes and others. The main impact of these will be on the colleges sector and the discussion is therefore not reproduced here. However, readers wanting to review relevant issues should read section 7 of the main report.

The content of this summary report was written jointly by two authors: Allan Schofield wrote the initial contextual overview and acted as editor of the overall report and Simon Shaw wrote the specific content on strategic leadership in WBL. Enquiries regarding the content of this report should be directed to Simon Shaw at simon.shaw@mindset2000.com

¹ The full report is available at www.lsis.org.uk/governancereview

The Background to Governance, Strategic Leadership and Accountability in FE

This section is an edited combination of parts of Sections 1 to 3 of the Main Report.

- 1 Different governance and strategic leadership arrangements apply in the three main sectors of FE:
 - The college sector, which is itself diverse and consists of three main elements: general FE colleges, land-based colleges, and colleges specialising in art, design and performing arts; sixth form colleges; and independent specialist colleges which provide FE for learners with complex or severe learning difficulties and/or disabilities whose needs cannot be met at their local college. FE colleges are statutory bodies incorporated under the 1992 Further and Higher Education Act, and the governance of the corporation (the governing body of a college) is prescribed in considerable detail in the statutory instrument and articles of government. Colleges are also exempt charities, and this confers significant financial advantages for corporations, particularly from rate relief and VAT. Governance occurs through a governing body (or corporation in incorporated institutions) and external independent members must be in a majority.
 - The adult and community learning sector where two main patterns of governance exist: that for local authority providers and that used by third-sector organisations.
 - The work-based learning sector which is explored below.

- 2 There is no common understanding of effective governance and strategic leadership across the FE system. Rather, there are a set of different understandings which influence practice and regulation. They arise for a number of reasons which are explored below:
 - The diversity of the FE system and the variety of approaches to governance and strategic leadership used.
 - Different primary purposes of governance and strategic leadership exist in different institutions, sometimes within the same sector.
 - The history and background of the FE system includes multiple and changing influences, which means that no single dominant approach to governance and strategic leadership has emerged.
 - Different views about what constitutes effective governance and strategic leadership in the general literature and practice of the topic.
 - Different forms of accountability to funders, stakeholder groups, and regulators.

- 3 Even the terminology used is not consistent throughout the FE system, and may not be recognised in different parts of it. The term 'governance' is generally recognised within FE colleges but may not be understood in the same way in private work-based learning providers, where corporate governance is more likely to be recognised, at least in larger providers. Within local authority-run adult and community learning

provisions, both terms may be inappropriate in the context of electorally-determined processes, and in the third sector the diversity of organisations involved means that any number of different terms may be used. 'Strategic leadership' is therefore a useful synonym for governance in some sectors.

- 4 These differences are also found in the different codes of governance applying to the various types of organisations within the system. Private providers will normally operate their corporate governance systems under the Finance and Reporting Council (FRC) Combined Code², which operates on the 'comply or explain' principle. Local authority providers will typically operate under the Good Governance Standard for Public Services³, which builds on the Nolan principles for governance and, whilst containing some relatively common features, takes account of issues such as outcomes for citizens and service users, and promoting values and demonstrating good governance through behaviour. Both factors tend to be relatively ignored in other codes, but raise fundamental issues about the responsibilities of governing bodies beyond accountability to funders and legal and regulatory compliance. Third-sector providers of adult and community learning will typically have their own codes. Voluntary organisations, for example, have their own governance code⁴. Indeed, being closely regulated by the LSC, FE is the only sector without its own code. Add to this the requirements of the Charity Commission for providers that are charities (or exempt charities in the case of colleges) and it is clear that a potentially confusing set of expectations and assumptions about governance exists.

The Primary Purposes of Governance

- 5 Some of these varying understandings of governance or strategic leadership stem from providers or interest groups having different *primary* purposes and expectations of governance. None is right or wrong; they just reflect different interests and priorities. Three key common purposes are represented in the diagram on the next page:
- 6 ***Governance for Maximising Institutional Performance and Success*** is the dominant (although not sole) purpose of governance in the private sector and in autonomous institutions such as universities and many charities. Much of the rhetoric about board effectiveness is based on this purpose, and board performance is judged by the extent to which it adds value and maximises institutional performance and success. Accordingly, the approach is most at home in a competitive environment with strong market features. Many of the boards of private providers delivering work-based learning operate in this frame of reference, and some FE governing bodies also see this as their primary purpose.
- 7 ***Governance for Accountability and Compliance*** has been the dominant (although not sole) purpose of governance in much of the public sector, and in FE is primarily the domain of the LSC. Here the focus is on providers implementing agreed policy (which may not be their own), meeting defined performance parameters (often expressed through targets), avoiding perceived risk, and assuring compliance with legal and

² The Code can be found at www.frc.org.uk/documents/pdf/combinedcode.pdf

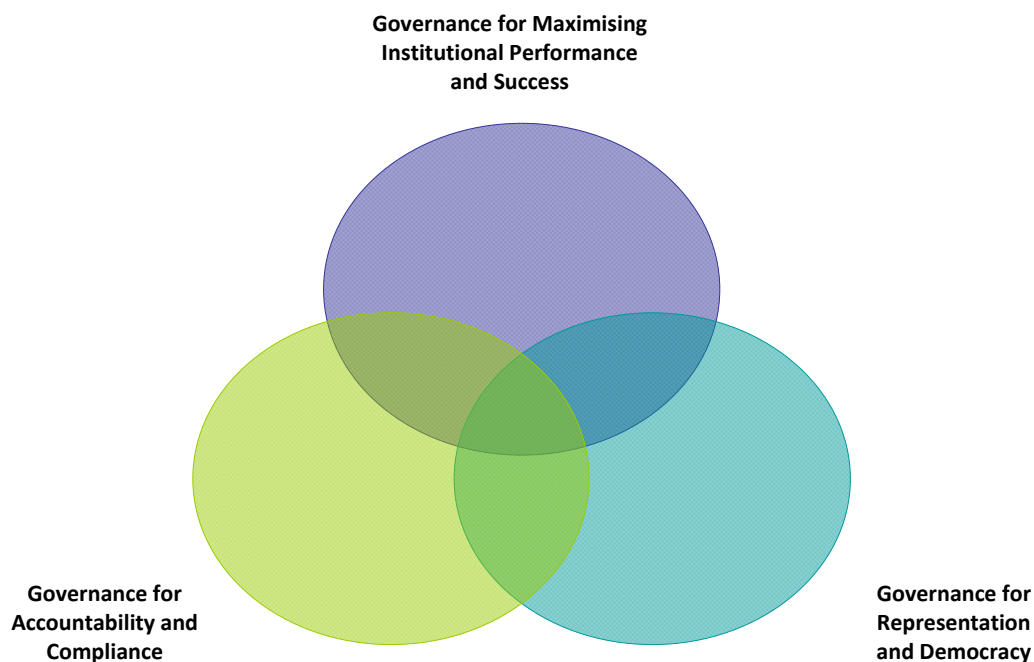
³ The Independent Commission on Good Governance, (2005), *op cit*

⁴ See www.ncvo-vol.org.uk

regulatory requirements. Effective governance in this approach therefore equates to ensuring accountability and the operation of defined processes, and in competitive environments may at least in part operate as a control on the operation of market forces. There are clear tensions between this purpose and that of maximising institutional performance.

- 8 ***Governance for Representation and Democracy*** is the dominant (although not sole) purpose of governance in many social organisations or in those providing educational or social services. Here the focus is on engagement, participation and democracy (hence the associated concerns about the democratic deficit in the other two approaches). The focus of effective governance here is often as much about how decisions are made rather than on whether they are optimal or not. Some colleges with strong partnerships with local communities report seeing this as the primary purpose of their governance, and this is particularly the case where collaboration rather than competition is exercised. Staff and student participation (and that of parents in sixth form colleges) in governance may work best within this approach. This purpose is well recognised in the ACL sector.

Figure 1: Different Primary Purposes for Governance



- 9 Of course, in reality all three purposes exist to some extent in most providers, but the balance varies and one approach tends to dominate. The interactions between the circles representing these three purposes raise many issues for the governance and strategic leadership of FE. For example, most governance in FE takes place in the context of boards (whatever they may be called) which are accountable not just for the success of their own organisation, but also in varying ways for implementing government policy. However, much of the literature on board effectiveness (and the models which parts of the public sector have been urged to adopt) is predicated on a private sector approach, which - by definition - assumes freedom of action by boards, with all the associated emphasis on strategy, adding value, etc. There is an obvious

paradox here; for example, the government is simultaneously seeking to encourage private providers in work-based learning because of their perceived flexibility and responsiveness, whilst still retaining close regulatory control over the college sector.

- 10 A second factor is less obvious: most public services operate on a 'fitness for purpose' basis, with value for money being a crucial taxpayer consideration. Indeed there may be substantial debate about what services the public should pay for (as in the case of the National Institute for Clinical Excellence which formulates policy on drug availability). A major element in effective governance and strategic leadership then becomes ensuring that service provision meets defined standards, whilst achieving optimal value for money - which in FE is the role of Ofsted and the LSC. However, institutional success in the private sector (and arguably other sectors such as higher education) does not assume a fitness for purpose approach, but rather one based on growth and achieving institutional success, usually through striving for excellence through competition or maximising shareholder value. This clearly provides different conceptions of the effectiveness of governance or strategic leadership, and a board that sees its role in this light is likely to be challenging the constraints of a fitness for purpose approach.
- 11 The literature on effective governance - and therefore generalised 'good' practice - is largely based on assumptions which seek to maximise institutional performance. However, much of it is about the processes of governance, and only more recently has increased attention been paid to the leadership roles of boards⁵. One example is a report by Bain⁶ (himself Chairman of the Institute of Directors - IoD), who has identified some of the key collective and personal attributes that effective boards require. Based on a critique of the quality of most private sector governance, he calls for greater attention to be paid to re-establishing trust and integrity in governance and management, a call amply justified in the light of subsequent scandals. Perhaps most relevant to FE is Bain's discussion of the IoD's 'Standards for the Board' which defines the following personal attributes (each in turn subdivided into different categories): strategic perception, decision making, analysis and the use of information, communication, interaction with others, and the achievement of results. Clearly these attributes will manifest themselves in very different ways in the FE sector, but - selectively used - they (and other such approaches) remain a potentially useful list of attributes for providers to consider when recruiting board members.

What Does This Mean For Governance and Strategic Leadership?

- 12 A major challenge to effective governance and strategic leadership perceived by many respondents during the consultation for this study was the lack of agreement about what constitutes the main governance roles and responsibilities of an FE provider, even within specific parts of the FE system, e.g., colleges. At first, this might seem a slightly puzzling observation: after all, within colleges the articles of government define six responsibilities⁷ for corporations, and both Ofsted and the LSC make judgements about governance as part of their review processes. Moreover, despite

⁵ See for example, Lorsch J W, and Clark R C, (2008), *Leading From the Boardroom*, Harvard Business Review, April

⁶ Bain N, (2008), *The Effective Director*, Institute of Directors, London

⁷ In summary they are: determining and reviewing educational character, approving the quality strategy, the effective and efficient use of resources, approving annual estimates, HR matters for senior post holders and the clerk, and setting a pay and conditions framework. (paragraph 3 of the articles of government 2008)

increasing innovation, there continues to be substantial similarity between governance processes in most colleges. However, the factors listed above inevitably create a powerful ambiguity about what governance means in practice.

- 13 Such difficulties are compounded by the key stakeholder bodies appearing to have different - and sometimes conflicting - expectations for providers in relation to good governance. So far as the LSC is concerned, its approach is set out in the annual financial memorandum and associated processes, which are widely seen as narrow, procedural and compliance-focussed, as well as being unhelpful in the amount of detail required. Conversely, Ofsted are seen to be moving towards a more rounded view of governance which is increasingly focussed on strategic leadership, impact, and the institutional capacity to improve.
- 14 In relation to both organisations, providers recounted to us different experiences about inspections, and several commented that their inspectors either appeared not to know much about governance or were unable to separate governance from management in the way articulated in most governance codes. Add to this the different expectations of HEFCE concerning HE in FE provision (generally welcomed for being less burdensome) and the ambiguities created by the forthcoming machinery of government changes, and the scope for giving different messages about governance and strategic leadership is obvious. This was summed up - slightly abruptly - by one responding governor who commented to us that "it would be nice if they [the various stakeholder bodies] could agree what they wanted from us!"
- 15 This lack of consistency creates potential problems, exacerbated for providers by the funding methodology and regulatory requirements of the LSC and the frustrations for some corporations caused by the capital funding and Train to Gain problems. The move towards shared regulation provides an opportunity to provide greater clarity, although this move is itself subject to substantial ambiguity. The following sections identify what actions might be taken in the particular sectors of FE (including the adoption of an FE college code of governance). What most providers would wish - and what we think is necessary - is more all round consistency of approach. The need for this has generally been recognised in some of the initial preparation for shared regulation (including through the work of the Single Voice), although the practical outcomes are yet to emerge.

Strategic Leadership and Accountability in Work-Based Learning

This Section is Appendix D of the main report reproduced in its entirety.

Executive Summary

Purpose and Limitations of the Study

- 1 The purpose of this study is to provide a picture of the way in which strategic leadership and accountability are fulfilled in organisations delivering government-funded work-based learning, together with some useful indicators as to what makes provider boards effective. It is a mainly descriptive account of a subsection – though a significant subsection – of work-based learning providers. It does not answer the question: ‘How effective are strategic leadership and accountability in work-based learning?’, which would require a more detailed study across a wider range of organisations. However, it does enable important questions to be asked about the nature of strategic leadership and accountability in this part of the further education system and the kind of arrangements that might best serve providers, those who fund them and those who benefit from them, in any move towards greater self or shared regulation.

How Boards⁸ Function

- 2 Board structures and roles are predictably varied depending on the type of organisation, ownership, size and primary purpose of the provider. Most boards have some non-executive members, although their number and role varies. In some of the stronger boards, the chair is a non-executive director who has a close working relationship with the chief executive.
- 3 The most important function of boards is to maintain the organisation’s viability. This typically manifests itself in two ways: looking back at performance and looking forward to the future. The first focuses on recent performance, the second looks towards the longer-term horizon and is seen as more strategic.
- 4 The relationship between boards and executive teams is an important part of how they function. Among the various roles played by boards, challenging their executives and senior managers is perhaps the most critical. Boards hold the executive to account, hold to the core values of the organisation and present, to a greater or lesser

⁸ The term ‘board’ is used to denote any structure that fulfils the strategic leadership and accountability role for work-based learning. Most of the providers included in this study have formally-constituted boards, although a small number have councils or committees that fulfil this function. This is not necessarily representative of all work-based learning providers, some of which may not have any form of board or other structure separate from the management team or even, in very small organisations, a single owner-manager.

degree, its profile to partners, stakeholders and the public. Boards also support the executive, contribute valuable intelligence, and create the space to be creative.

- 5 The psychological aspects of the relationship between boards and the executive are as important as the more overt practical aspects. Boards provide the psychological support that underpins the executive's capacity for confident and decisive action. They are the setting in which the organisation rehearses its position on the wider stage, the attitudes it displays and the scripts it uses. The mimetic function of boards is most visible in those with a strong non-executive representation.
- 6 The decisions boards make generally reflect the intentions of the executive. However, their decision-making function is genuine and significant. The process of ratifying a decision involves a second layer of scrutiny of the grounds on which the decision is made, and thus confirms the executive in its intentions. The process may also reveal weaknesses or flaws in the executive's plans and lead to modifications which strengthen them.
- 7 Chief executives describe themselves variously in relation to their boards as first among equals, a conduit between the executive and the board and 'tutors' of the board (especially non-executive members) in terms of the industry and the practicalities of what can be achieved. Looking after the board is an important task for CEOs and takes time and energy. In return, good boards generate considerable energy which transfers almost without friction into the momentum of the business.

Board Effectiveness

- 8 There are no hard and fast rules for a well-structured board in work-based learning providers. Boards develop to match the requirements of each organisation, and need the freedom to develop in appropriate ways. Given their range and diversity, there is no obvious merit in seeking greater commonality of structure or process of strategic leadership and accountability among work-based learning providers.
- 9 Most providers are confident that their governance structures are solid enough to provide accountability for public benefit as well as legal and financial accountability. Existing controls in the contracting and regulatory environment provide sufficient scrutiny of public value, without the need for further control mechanisms. The independence of boards generally tends to reinforce the social and ethical values of the provider's mission.

10 The various aspects of accountability may be expressed as follows:

| <i>Accountability for</i> | <i>Accountability by</i> |
|------------------------------|--|
| Financial probity and health | Published audited accounts, LSC audit outcomes, Framework for Excellence scores |
| Value for money | Performance: learner success rates |
| Economic good | Employer impact and return on investment measures |
| Social good | Participation and performance data relating to equality and diversity |
| Legality | Compliance with rules and codes |
| Ethical conduct | Adherence to stated values and delivery of wider mission |

11 Boards of work-based learning providers are conscious of the risks inherent in delivering a service that is wholly or largely government-funded. Risk is computed in terms of the impact of government policy on funding, and boards are sensitive to its inherent volatility. Some are critical of the balance of risk between themselves and government and anxious that the current balance threatens their long-term sustainability.

12 There is no equivalent in work-based learning to the 157 Group of large, successful colleges. However, some of the larger and better-performing work-based learning providers understand that they have the potential to provide leadership to the work-based learning sector as a whole. Some seek to change government policy as well as set an example to other providers.

13 Clear strengths in work-based learning provider boards emerge from this study, as well as areas in which their effectiveness could be improved.

Accountability in Work-Based Learning

14 Although work-based learning providers are part of the further education system, they stand in a different relation to the system than colleges, sixth forms and schools. There are two structural reasons for this. First, they may be tangential to the system, in that only a part of their activities - sometimes a small part - is concerned with providing government-funded training. This is obviously the case for organisations in Class A and Class B above (Box 2), which includes large national employers from Sainsbury's to Siemens, the armed forces and organisations such as VT Training which are part of much bigger concerns. It also holds true for smaller regional and local training providers which derive some (and in some cases much) of their revenue from purely commercial training that is not funded by the government. Second, work-based learning providers may also be relatively impermanent inhabitants, moving in and out of the system more easily and quickly than institutions such as colleges and schools that are, by and large, more permanent features. Non-college work-based learning providers are provisionally linked to further education by market forces rather than being bound to it by statute.

- 15 These two factors put work-based learning providers in a different category than schools and colleges and have a profound effect on how the concept of accountability applies to them. It is perfectly sensible and justifiable for government to have a strong influence on the governance of institutions that are more or less guaranteed a permanent presence in the system, are to a large extent dependent on government for revenues and whose assets are ultimately publicly-owned. However, it would be difficult to argue the same for organisations with a tangential and impermanent relation to the system, earning revenues from outside the system and whose assets are privately- or corporately-owned. Different concepts and forms of accountability, e.g. corporate governance, more rationally apply to them.
- 16 Nonetheless, it is reasonable to require any organisation that draws on public funds to have effective leadership at a strategic level in the organisation and to provide accountability for how and how well the service being paid for is delivered. The regulatory system currently provides much of the information needed to attain a reasonable level of accountability in most circumstances, e.g. through commissioning, performance management, verification and inspection. Moves towards greater self- or shared regulation, however, are an opportunity to ask whether work-based learning providers could themselves take some of the responsibilities currently held by regulatory bodies and, if so, how these additional responsibilities could be shouldered without adding to the burden.
- 17 This preliminary study did not seek to ask which of the regulatory burdens could be transferred to providers. Its purpose was simply to establish whether existing arrangements for strategic leadership and accountability among some of the larger and better-established organisations are effective in providing accountability, what makes them effective and how they might be improved. How the lessons learned from this study might apply more broadly across providers is now a matter for the sector itself to consider. Given the degree of variation in providers delivering work-based learning, a 'one size fits all' approach is not likely to gain support. However, two questions emerge from this study that should be asked in any further work in moving towards self- or shared regulation. They are:

Would it be sensible to establish a cut-off point beyond which formal structures of accountability (such as those described in this study) would be expected? And, if so, what would the criteria for establishing the cut-off point be, e.g. value of contract, relative size compared to other revenues?

Where no formal structures are to be expected (though they may exist in some providers), can greater accountability be supplied at an aggregate level, e.g. through associations representing providers rather than by providers themselves. And, if so, what would such accountability arrangements look like?

Introduction

Work-Based Learning

- 18 Work-based learning is a notoriously slippery concept. Even if the definition is restricted to training activity funded through the Learning and Skills Council's demand-led funded employer-responsive stream, the provider base delivering these programmes is diverse and fragmented by comparison with the relatively homogeneous further education college sector, although it includes a large number of colleges that do deliver work-based learning, some in-house and others through separate but wholly-owned organisations.
- 19 In 2008/09 1,358 organisations received funding from the LSC via the employer-responsive stream⁹. These organisations delivered three main programmes: Apprenticeship, Entry to Employment and Train to Gain. Just under half of them were Apprenticeship providers¹⁰. Of these 920 Apprenticeship providers, just over half (52%) are classified as organisations in business in their own right - private limited companies, plcs or companies limited by guarantee; a quarter are further education colleges and the remaining 23 percent are classified as 'other'. They include Chambers of Commerce/Trade, charities, local authorities, other private and public organisations and organisations whose type is unknown.
- 20 Differentiating between providers on the basis of organisation type and funding stream is useful, but does not give a complete picture. For the purpose of this study, a classification was developed using five dimensions: the type of organisation, its primary purpose, the geographical scope of the organisation's publicly-funded training activities, the value of the publicly-funded training contracts it receives and the LSC programmes it delivers (see Boxes 1 to 5). The number of organisations involved in the study was very small, so no meaningful statistical analysis can be made using the data. However, the five dimensions provide a basis for selecting the organisations in the study and making sense of what they do. They may also be useful for further research into a sector which, although relatively under-researched, is responsible for delivering £1.7 billion of publicly-funded training in 2008/09.

Box 1: Type of Organisation

Organisation in business in its own right

Public limited company

Private limited company

Public sector organisation

Local authority

Government department or agency

Further education college

General FE college including tertiary

Sixth form college

⁹ Figures from the Association of Learning providers, September 2009

¹⁰ Learning and Skills Council, *Apprenticeships: Understanding the provider base*. April 2009

Specialist college

Not-for-profit/third sector

Registered charity

Company limited by guarantee

Trust

Industrial and provident society

Community interest company

Other

Chamber of Commerce/Trade

Sector Skills Council

Group Training Association

Box 2: Primary Purpose of Organisation

Class A

Organisation whose main business is not the provision of training services but which trains its own staff with a contribution from public funds.

Class B

Organisation that provides publicly-funded training to other organisations and individuals it does not itself employ as one service amongst others.

Class C

Organisation for which the provision of publicly-funded training to other organisations and individuals it does not itself employ is the main business and a major source of revenue.

Class D

Organisation whose main purpose is training, and for whom the provision of publicly-funded training to other organisations and individuals it does not itself employ is one source of revenue but not the major source.

Box 3: Geographical Scope of Organisation's Training Activities

National – provides training in more than three regions.

Sub-national – provides training in one to three regions.

Regional – provides training in more than three local authority areas within a single region.

Sub-regional – provides training in one to three local authority areas within a single region.

Local – provides training in one local authority area.

Box 4: Value of Publicly-Funded Contracts for Training

Very large – greater than £30 million

Large – greater than £10 million and less than £30 million

Medium – greater than £5 million and less than £10 million

Small – greater than £1 million and less than £5 million

Very small – less than £1 million

Box 5: LSC-funded Programmes

Apprenticeship
Train to Gain
Entry to Employment
Integrated employment and skills
Offender learning and skills
European Social Fund

Organisations in the Study

21 Nineteen organisations took part in this study: 18 were interviewed and 15 completed a questionnaire. Given the small size of the sample, it cannot claim to be completely representative of this diverse sector. Just over half of the organisations taking part were selected because of the size of their LSC contracts, including ten of the fifteen largest Apprenticeship providers. A recent study on self-regulation found that the majority of work-based learning providers – over 85 percent of the total – are in the ‘very small’ category. Most of these do not have Boards or trustees.¹¹ No organisations in this category were included in this study for that reason.

Table D1: Primary Purpose of Organisations in the Study

| | | |
|--------|---|--|
| Type A | 2 | Both large private sector employers, using public funds as a contribution towards the cost of training their workforce |
| Type B | 2 | One charity and one sector training provider |
| Type C | 8 | A mix of private companies, plcs and voluntary organisations |
| Type D | 1 | An organisation providing various services to local communities |

Table D2: Type of Organisations in the Study

| | | |
|---|----------------------------------|---|
| Organisation in business in its own right | Public limited company * | 3 |
| | Private limited company ** | 7 |
| Not for profit/third sector | Registered charity | 3 |
| | Company limited by guarantee *** | 2 |

* Includes the two large private sector employers

** Includes one company wholly owned by a further education college

*** Includes one company, formerly a group training association, now wholly owned by a further education college

Table D3: Geographical Scope of Organisations’ Training Activities

| | |
|--------------|----|
| National | 11 |
| Sub-national | 2 |
| Regional | 1 |

¹¹ McAvoy D and Marple Ps, *Self Regulation and Private Providers in Work Based Learning*. LSIS, 2009

Table D4: Value of Organisations' Publicly-Funded Contracts for Training

| | |
|------------|---|
| Very large | 2 |
| Large | 6 |
| Medium | 3 |
| Small | 1 |

- 22 Seven of the 15 organisations that returned questionnaires calculated the proportion of total revenues stemming from publicly-funded training contracts during the previous full year (1 August 2007 to 31 July 2008). In four of these, the proportion was in excess of 90 percent, while for two others the proportion was 88 and 80 percent. The remaining organisation which calculated this figure gave the proportion as 39 percent. Clearly, public funding is a vital source of revenue for the great majority of work-based learning providers, including the larger ones.

Table D5: Number of Organisations Delivering LSC-Funded Training Programmes

| | |
|----------------------------------|----|
| Apprenticeship | 15 |
| Train to Gain | 13 |
| Entry to Employment | 10 |
| Integrated employment and skills | 6 |
| Offender learning and skills | 5 |
| European Social Fund | 2 |

- 23 Out of the maximum possible total of six LSC-funded programmes, four organisations deliver five programmes, two deliver four programmes and seven deliver three programmes. Seven of the organisations also deliver programmes funded by the Department for Work and Pensions, designed to help people who are unemployed enter into the labour market.

Provider Boards

- 24 Of the 15 organisations that returned questionnaires, 13 have Boards that are responsible for the governance of publicly-funded training. Of the two remaining organisations one (a national charity) has a Council and one (a large employer) has a committee set up especially for this purpose.
- 25 Boards of private companies, plcs and companies limited by guarantee are relatively small, consisting of five to nine members. They all contain executive and non-executive members. Most have slightly more executives than non-executives, with an overall ratio among the 15 organisations of 6:5. Three have employee representatives on the board and two have representatives from other stakeholders.
- 26 Boards of charities and voluntary sector organisations are larger, consisting of 12 to 15 members. In three of the four organisations in this category, all the members are non-executives. The other has three executive members alongside 12 non-executives.

- 27 There are formal processes for the election or appointment of board members in ten of the organisations. The processes include open recruitment and selection (4), appointment by existing board members (4) and appointment by the parent organisation (2). In the other five organisations, where formal processes are not used, members are on the board by virtue of their role as executives or (for non-executives) by invitation of the board.
- 28 Boards meet monthly (5), every two months (2) and quarterly (6). One board meets twice a year for a full day. In other organisations, meetings typically last one hour (1), 2-3 hours (7) or half a day (4). All boards are provided with information before meetings and minutes afterwards.

How Boards Function

Composition

- 29 There are no hard and fast rules for the way in which boards of work-based learning providers are structured. Their make-up depends on various factors including the ownership structure of the organisation, its size and maturity, its primary purpose and the relationship of the organisation to parent companies or sponsors. The study does, however, provide some indication of what a well-structured board looks like (Box 6).

Box 6: Well-structured Board

- Representative – of the organisation’s functions, including central (e.g. sales and marketing, finance) and operational functions and of its ownership, including investors.
- Diverse – with members from different backgrounds, which may include a mix of public and private sector experience, who can bring a mix of perspectives.
- Knowledgeable – about the organisation’s business, priorities and key issues; about the industry; and about business in general.
- Expert – in specialist areas, e.g. finance and accounting, equality and diversity, business development, strategy.
- Committed – to the success of the organisation and able to devote enough time.
- Well connected – to relevant constituencies, including political leadership, business community, stakeholders.
- Tightly-knit – not too many members, with clear accountability and terms of reference for each one.

- 30 Getting a board with the right make-up is by no means an exact science, but thoughtful chief executives spend time and energy trying for an optimum mix. Some provider organisations represented in this study have a matrix of skills and backgrounds and try to recruit to fill the gaps. The recruitment process may include a skills audit and review of the current board membership, job descriptions for new members and explicit selection criteria. Gaps may emerge because of rotational issues, rather than being evidence of a fundamental problem. One organisation plans to have a service user panel involved in appointments.

“There’s a good mix and balance on the board but it needs to be refreshed. We’ve recently had two or three people whose membership has not been renewed, partly because the organisation is different – the agenda is changing. There’s a trade-off for us between people who are committed and those with relevant skills. Right now we need less internal and corporate supervision, and more advocacy, networking, positioning. Politically we’re quite well connected, but things are changing in other communities of interest, such as business and local government. We need to make sure we have influence and status in the relevant constituencies.”

- 31 Formal recruitment processes are the norm in plcs and large charities, but in other organisations members are frequently appointed on personal recommendation or by word of mouth.

“The base make-up is fine, but it’s always a challenge to get the right individuals. Local authority nominees are a perennial problem, especially if they’re chosen for Buggins turn, though having said that, we’ve been lucky with one or two individuals. It’s a weak part of the process and we could probably do with more active local authority involvement on the board. It’s hard to change the constitution, but we do allow elected members to use alternates, who tend to be executives of the authority.”

“Our previous board was from local companies. We had a better representation then – a stronger connection to our customers. They were involved in our business so it made sense to them to keep the organisation strong, as end-receivers of the service. We’ve lost a bit of that connection now. The current board are more aware of government funding and the education sector, whereas the knowledge of previous Board members was more focused on the engineering and manufacturing sectors.”

“As part of our regional profile, we have talked about how we get stakeholders more involved in shaping the organisation. We already have strong employer engagement mechanisms, and there’s a sense of us interpreting their needs and reflecting these back – but we haven’t got defined stakeholders to formally test out accountability. We could try to get this through formally constituted means.”

- 32 Several of the providers that took part in the study were relatively young organisations. At this early stage in their formation and development relationships in boards can be difficult or even stormy. Conflict appears more likely if the organisation is new and has a board predominantly made up of executives.

“At the start, a group of people came together with different attitudes. Some were risk-averse, others entrepreneurial – it didn’t work. The personality mix was wrong. Things have changed now, people have come in with specific skills and knowledge. It was a massive learning curve.”

- 33 The presence of non-executive directors can improve stability and the quality of strategic leadership:

“Boards should have at least one non-executive member to bring in expertise. The biggest problem for work-based learning is the the lack of potential leadership – good outsiders do come in but most of the problems are through ignorance.”

Roles

- 34 All organisations taking part in this survey said that the roles and responsibilities of the board are very clear. In very broad terms, boards agree key performance indicators against which the performance of the organisation is measured and they monitor performance against these measures.
- 35 According to the 15 organisations that responded to the questionnaire, the three most important functions of the board are to ensure an effective planning process, define – and where necessary defend – core values, and monitor performance. Of moderate importance are ensuring that bottom-line targets are delivered and building trust and confidence in the organisation. The three least important functions are to engage

with the local community (including employers), benchmark the organisation's performance against peers and measure the performance of the board itself. According to respondents, boards do not carry out these three functions very well, nor do they always communicate very well with stakeholders and the public at large. All other functions are carried out very well or fairly well.

- 36 Respondents to the study differentiated between the inward-facing and outward-facing roles played by boards (Boxes 7 and 8).

Box 7: Internal roles

- Viability – financial and in terms of the organisation's ability to perform its service function effectively.
- Visibility – to managers and staff, e.g. through visits, events, ceremonies.
- Challenge – set exacting standards, reflect core values and attitudes.
- Objectivity – bring an outside view to day-to-day work.
- Focus – keep things on track; not over-preoccupied by detail.
- Validation – of the organisation's direction and strategy, and of the actions of the executive team.

- 37 Internally, the most important function of boards is to maintain the organisation's viability, financially and in terms of its ability to perform its core mission. Boards typically do this in two ways: by looking back at performance and looking forward to the future. The first focuses on recent performance, the second looks towards the longer-term horizon and is more strategic.

“We know where the government is focusing the funding and design the company strategy within it. The board looks at the implications of this in terms of finance, property etc. They are focused on cost and investment: infrastructure, systems, support teams. They make sure we are ready to take on management of contracts.”

- 38 Chief executives and senior managers value all the other internal roles highly.

“They do set us a challenge – it's not an easy ride. Internally we do this anyway, give ourselves a hard time on things like quality. In that sense the board reflects our internal attitudes. If we have areas of concern they are formally noted and the board has an expectation that we have to prove ourselves responsive. For example, we're looking at attrition rates in training and the board is scrutinising us on this. They're asking how we can account for sub-regional variances in early leaving and failure to complete, what are the triggers for escalating action?”

“Challenge is encouraged and welcomed. It's part of the culture of the organisation, otherwise things don't move forward. Taking people out of their comfort zone helps us to understand risks. Open disagreement helps us get to the root cause – we ask the 'why' questions to get to the bottom of it. There's always somebody who will come up and try to plot a path. It's often the chief executive's role, or one of the others will step in.”

39 Not all these roles are fulfilled equally well, however, especially in relatively immature organisations.

“At the moment, board members are mostly engaged at meetings rather than between meetings. They recognise that we have all the professional disciplines in the paid team. But they hold us accountable - we value that highly. The board has recently identified that they need to get better at challenging the executive and the chair is meeting individual board members to talk through how it’s working. I’m conscious that it’s an area to address. We’re just at the start of the process.”

40 The relationship between boards and the executive is a key factor in board effectiveness. It is not just a matter of boards holding the executive to account, though this is important. The relationship plays out, in miniature, the broader relationship between the organisation and the outside world, in particular the organisation’s stakeholders. Boards ‘represent’ the outside world, in a psychological rather than a democratic sense; and this playing out of roles helps the organisation rehearse its position on the wider stage, the attitudes it displays and the scripts it uses. Challenge from the board gives chief executives in particular a practice run for facing the challenge from outside. This mimetic function of boards – practice in the presentation of self, as it were – is most visible in organisations with a strong non-executive representation on the board. Private sector company or plc boards are as likely to act in this way as those of public sector organisations or charities where elected members predominate.

41 Boards also represent the organisation to the external world in a more conventional sense. They may act as a channel of communication to partners, interest groups, communities and the general public. The chair, in particular, can become a figurehead and spokesperson, more visible externally than even the chief executive. In this external role, board members carry the organisation’s calling card in their pockets, spread the word about its success, have quiet words with the right people and use their personal networks to further its interests.

Box 8: External Roles

- Feedback – where members represent stakeholders, e.g. employers or sectoral groups.
- Education – keeping the industry informed about education and training policy.
- Partnerships – developing and maintaining strong relationships with delivery partners.
- Influence – helping to create the climate and conditions in which business can flourish.

“The board works well. I say that on the basis of external evidence – our Grade 2 at inspection for leadership and management reflected the strength of governance. We’ve got to a strong position quite quickly because people on the board are confident about the employment and training context. They contribute in a strong and positive way and have quite a lot of influence in developments. The board is also an incredibly helpful point of validation.”

Responsibilities Within Boards

- 42 Because boards of work-based learning providers are generally made up of executive and non-executive members, there is not a clear or uniform split in responsibilities between the executive and the board. For executive directors, there is a continuum of responsibility through their day job to their role as board members. There is, however, a clear difference between what executive directors are responsible for on a day-to-day basis and at the board.

“The management team is focused on day-to-day activity, short-term objectives. The board takes a slightly longer term perspective on strategy and looks at the high impact stuff: financial performance, success rates etc.”

“The senior management team are responsible for the day job. They drive the direction of the organisation to meet the strategic objectives of the business.”

“The board is strongly concerned with decisions and governance, but the executives work through the process.”

- 43 The presence of non-executive directors at board meetings changes the dynamic for executives, while the formality of the meeting acts as a lens, focusing and sharpening their sense of responsibility.

“The executive team is very focused on day-to-day business. The team meets in the week of the board meeting to prepare. They take it very seriously.”

“The executive team prepares well for board meetings – we want them to get a feel for the business.”

“Quite a high level of work goes into preparing for board meetings. We have a pre-meeting with two executives and two board members where we work through the thinking. We almost want to get a sense of common position having been arrived at – no battle lines. The board meeting is not the place where issues of concern should be brought up – we need the opportunity to clarify beforehand.”

- 44 Non-executive board members may attend executive team meetings and have contact with different members of the team outside meetings.

“Executives attend their own committees [of the board]. There’s not much interaction between board and executives outside formal structures, but board members are accessible if needed.”

“The senior management team is day-to-day, hands-on – staffing, physical things. The board is more about higher level, setting parameters and framework. But some board members are doing practical things as well.”

- 45 Chief executives and chairs may have more regular contact.

“We have a formal weekly catch-up and speak two or three times a week besides. I get a lot out of this: it’s an opportunity to bounce ideas about, test my thinking, share potential issues.”

“We talk regularly. I bring him into the business and he helps me think outside the box. My check and balance: his style is not to impose his will but to add value where he can. Not a heavy involvement – it’s a light touch.”

- 46 All these different kinds of input, at board meetings and outside them, strengthen the organisation’s capabilities.

Dynamics

- 47 Boards work best when there are strong contributions from everyone, reflecting personal characteristics, skills and experience. Chief executives and senior managers expect to have challenging debates with their boards about future direction. They welcome time spent looking ahead to where the business is moving and value the board’s role in helping to shape and scope the organisation, especially in the current volatile environment.

- 48 The board’s role in reviewing performance is also seen as essential, but there is sometimes a feeling among executives that boards can be over-focused on their supervisory role rather than its more developmental aspects. One CEO, however, suggested that the board “could push us harder, for example on success rates; they give us the excuses”.

“I’d describe our board meetings as a combination of chaos and consensus. There may be contentious issues but the board is solutions-driven. Earlier in the company’s history people were fighting their corners – we don’t get that now, we’re all focused on opportunities and what we need to do. We don’t shy away from arguments – it’s not a big deal – but focus more on the solution.”

“I don’t see the board as an interference but as a help. They see things from a different point of view. Some of them have specialisms in areas like finance and marketing, which means they ask new questions, raise new issues. My role [as chief executive] is *primus inter pares* – I’m in the position of any CEO where the board is not full of executives. The chair is in charge and is the overall leader and the chief executive is accountable to the chair, but it’s the CEO that drives and leads the board.”

“We try and have a relaxed and focused discussion, open up and be as honest as we can about where we are. It helps us to ease into subjects where we’re not comfortable.”

- 49 The disciplines underpinning board activities reinforce the status of the board as well as ensuring that good use is made of the time given over to these activities by executives and non-executives alike.

“Board members receive a substantial pack of papers before meetings and are expected to read them. They ask questions, some challenge, some amend drafts. The detailed work of scrutiny happens outside board meetings at committee meetings. Boards are formal but have an informal feel. The chair is very good at making sure that people contribute.”

“Board meetings are important; they’re not a pushover, but they are constructive. How do they add value? Well, I suppose it’s about support and challenge – they stretch us a bit and provide psychological support.”

“Gives you room to breathe – we’re working at breakneck speed. It’s like having someone asking difficult questions – a chance to look again at things together, ask why we’re doing this. Gives us free space – people have to put their case, they’re put on the spot. A smaller group is quite important.

50 Despite this, boards sometimes operate at a sub-optimal or minimal level.

“They don’t have huge influence on the direction of the organisation. The board changes – we have had several new members come and go in the last few years. We’ve been largely self-directing and self-managing: we’ve stayed fairly self-sufficient. Most of what we do here is determined by the senior management team.”

Outcomes

51 According to the providers that responded to the questionnaire, the three most important outcomes of the activities of boards are maintaining the organisation’s financial health, ensuring that the strategic plan is achieved and being ultimately accountable for compliance with regulations. Of moderate importance are ensuring high quality in service provision, effectively assessing risk and supporting innovation, all of which are seen as the province of the executive rather than the board. Of least importance – rather surprisingly, in view of the emphasis in interviews on the board’s outward-facing role – are providing public confidence in the organisation or enhancing its reputation. However, boards are said to achieve all these outcomes very well or fairly well.

52 Internally, the most important outcome of board activity is to provide the psychological support that underpins the executive’s capacity for confident and decisive action. This function is discharged through the board’s decision-making and its power to grant approval or otherwise to the executive’s plans.

53 Boards are often said to ‘make the big decisions’. In reality, however, they are usually ratifying strategies and plans developed by the executive (Box 4).

Box 9: Desirable Outcomes

- Decisions – on strategy and actions.
- Approval – endorsement of strategic intent and plans.
- Self-belief – agency and the capacity to act.
- Values – core role and relationships.

“It’s all the usual things: agreement and ratification of major policy decisions. Review of results of previous month and year to date. Senior people coming in and leaving the company. Property and other commercial decisions.”

“Discussions around contracts, capital expenditure, appointment of chief executive, input into appointment of directors. And exceptional matters: the executive asks for decisions around big issues.”

- 54 Although boards generally have little independent power of decision, their decision-making function is genuine and significant, and executive teams feel exposed without it. There are two main reasons for this. First, the process of ratifying a decision involves a second layer of scrutiny of the grounds on which the decision is made, and thus confirms the executive in its intentions and stiffens its resolve. Second, the process may reveal weaknesses or flaws in the executive’s plans and lead to modifications which strengthen them. In rare cases where boards lose faith in the executive, they may take an independent decision, e.g. to suspend members of the executive team or - as recently happened in one of the organisations in this study - effectively sideline the chief executive until a successor is appointed.

“Decisions, basically, on plans, strategies, big performance issues with plenty of meat in them. The board is creative as well as validating decisions.”

“Endorsement of strategic intent and planning. Setting up performance frameworks and agreeing metrics. Setting up reporting arrangements. Reviewing performance. Focusing on areas for improvement and problems. Providing some space for thinking around future developments.”

“The board takes management recommendations or not - it’s their decision. We’ve had to take some very big decisions about the management of funding - how it’s divided up, what’s released to the business, what the company will fund. The board makes it clear about what we will and won’t do. It makes the big decisions on objectives and KPIs.”

“Our board adds value in helping to shape decisions. We may have a preferred way forward: they debate and challenge us very strongly.”

- 55 Board approval is needed in a formal sense as well, e.g. for statutory statements. In this sense the board is a backstop, taking ultimate legal responsibility for the organisation’s actions and protecting the executive from potential liabilities.

“The buck stops here – it’s about accountability – the final point of making sure that things are done properly.”

“Running the business in the right way – probity, accurate reporting – showing that the business is in safe hands. Currently the board is looking at how to meet the challenge of next year, how to diversify the business, how to manage our relationship with banks, how we communicate with the LSC and promote ourselves.”

- 56 In a psychological sense the board, like a parent, builds self-belief, reinforcing agency and the capacity to act, sometimes to a level beyond what the executive sets itself.

“Board meetings are important. They’re not a pushover, but they are constructive. The process adds value, through support and challenge – the board stretches us a bit. They provide psychological support as well.”

“It’s stretched the quality of training. We’ve had a system of quality assuring and improving training in the business, but there’s more discipline and higher quality outputs because of the government agenda. The board is helping us to upgrade our training even further.”

- 57 Boards can also be a powerful reminder of the *raison d’être* of the organisation, particularly (though not exclusively) in charities which have a campaigning remit alongside their training function.

“One of the challenges this organisation has is how it presents itself to the world. The executive have focused on internal restructuring and the need to redefine our presence in the outside world. We’ve been too focused on chasing the funding streams, but now we’re starting to take risks again. Trustees have brought a level of self-confidence to the journey we’re on. They make sure we won’t lose core values going through these discussions defining our role.”

Board Performance

- 58 Only two of the 19 organisations in this study formally review the performance of board members. The most stringent procedures are applied by a large private sector employer to the board of its education and training subsidiary. Members are given specific areas of responsibility such as finance, recognition of achievement, quality of delivery and suppliers, and liaise closely with the relevant executives. The chair sets and monitors objectives and key performance indicators for all these areas. Individual board members are accountable for specific KPIs and have a one-to-one annual performance review and appraisal with the chair against their personal objectives. A less stringent appraisal is carried out by the chair of a national charity with each Council member, the main purpose of which is to identify what role they would like to do and how they can best link into the organisation, rather than to reflect on performance.

“We have been through a self-critique to look at how well the board is functioning. It considered the role of the board, the chair’s effectiveness etc. It gave us a very critical view of ourselves and enabled us to focus on areas where we weren’t being as effective as we could be. As a result we’ve established an advisory board and have now got more of a forward focus.”

A few organisations are starting to tackle this area:

“Measuring performance of the board – we’re getting this underway, looking at more formal appraisal, induction and development of trustees.”

- 59 Several of the organisations that do not review board performance see this as a weakness and would like to strengthen it in future.

“There’s room for manoeuvre here – always things we can do better. Our board is tempted to focus on the immediate, resolving day to day stuff rather than keeping their eye on the future.”

Others don’t see formal performance review as a priority:

“No – there’s no formal process. We don’t find the need to do this. It’s not appropriate for us.”

“Probably not, other than through informal conversations. I would discuss problems about individuals [with the chair] but don’t perceive any at the moment. One of our strengths is that we can deal with issues as a group of people through conversations – we don’t wait for a board meeting if anything isn’t functioning as it should.”

- 60 Executive members are more routinely appraised in their management role, but this is distinct from their performance as board members. In one organisation, executive appraisal is mainly related to operational issues but does include looking at how executives perform as Board members against strategic issues.

Relationship with the Chief Executive

- 61 Chief executives variously describe themselves in relation to their boards as first among equals, a conduit between the executive and the board and ‘tutors’ of the board - especially its non-executive members - in terms of the industry and the practicalities of what can be achieved.

Chief executives have a special position *vis à vis* the Board and the executive. They direct the executive team and, whether or not they direct the Board, they carry a great deal of influence.

There’s always the risk of tension. The board might determine a view which isn’t always right. My job is to educate them into what is practical and doable. I try to protect the organisation from debates and give my team clarity.”

- 62 Part of the job is to facilitate a meaningful relationship between the board and the organisation.

“One of my roles [as chief executive] is to relay information both ways. I try to weave sensible discussions between the board and the executive, because the practical decisions are the responsibility of the executive team.”

“I see myself as a conduit between the board and the staff team. We have a good relationship - they respect my professionalism and that of the team.”

- 63 There are limits on the extent to which even a powerful CEO will go.

“I wouldn’t go out on a limb – wouldn’t put myself at risk of being in opposition against them.”

Influence rather than outright opposition is more productive.

“The board trusts its chief executive to deliver what it wants. I take away the sense of what the board wants as well as the letter – the Board doesn’t always make clear decisions but I do. There’s not a lot of underlying tensions now: one of the chief executive’s roles is to reduce these sensitively.”

- 64 Chief executives value the board’s role of challenging the executive – they don’t want their boards to be a pushover. Some also see it as part of their role in educating the board, “using information to enlighten them”, as one CEO puts it. Either way, the effect of this two-way traffic, as has been noted above, is to strengthen the organisation’s sense of purpose and of itself. Looking after the board is an important task for CEOs and takes time and energy. In return, good boards generate considerable energy which transfers practically without friction into the momentum of the business.

The Effectiveness of Boards

Structure

- 65 As was stated earlier in this Appendix, there are no hard and fast rules for a well-structured board in work-based learning providers. Equally, there is no evident benefit in any move towards greater commonality in the structures or processes of strategic leadership and accountability across the further education and training sector.

“I’d be worried about commonality. A uniform requirement built from the way in which the public sector regulates itself would cripple training suppliers and private sector organisations. People should have modalities of expressing good governance relevant to their organisations.”

- 66 Boards develop to match the requirements of each organisation, and need the freedom to develop in appropriate ways.

“It’s better for each organisation to interpret what it should be doing and get on with it themselves. There’s a very wide range of organisations, all approach it in a different way. Shoe-horning would be a distraction. If the overall principles are clear, less intervention is better than more.”

Private sector managers and boards are especially keen to preserve their independence, which they see as central to their ability to act entrepreneurially.

“You’ve got to be careful about this – we don’t want to start regulating on the basis of structures. The reason why we’re successful is that we get things done, we drive it. I spent 20 years in the public sector and see it as one that doesn’t deliver because it’s so bound up in bureaucracy. We need a mixed economy – entrepreneurial people delivering new things won’t come from the public or third sector.”

- 67 There is some suggestion that not all providers have yet developed the right structures and controls. As a stimulus to improvement, however, guidance is preferred over regulation.

“I’m in two minds about this. The provider base in this market is immature and could do with some directions and guidelines or code of conduct. But from our point of view, we have our own standards of governance, principles that give us clarity of decision making.”

Anxiety occasionally surfaces over the prospect of more regulation based on a college model.

“They all want us to be colleges because they don’t understand us.”

- 68 However, managers and Boards are generally self-confident about their structures and don’t anticipate any threat to their independence, even when they acknowledge the similarities in mission.

“We’re doing similar work to large colleges – we have a memorandum of understanding with the larger ones. There are different governance arrangements than colleges but we get things right, especially finance and quality. The board has signed up to all the standards and my view is that we provide the right governance without the need for more onerous arrangements.”

- 69 One chief executive anticipates that governance arrangements might change if the LSC were to give capital funding to private businesses.

“We would be willing to take on board specific rules about governance because of taking more for capital. We could have some of these rules [that apply to FE colleges], though we don’t want the whole panoply. With capital funding, the long-term relationship relates to payback. If the LSC makes a long-term commitment to funding, we’re happy to have extra governance. If we’re a contractor, then no, we’d want to be dealt with entirely commercially.”

Accountability and Public Benefit

- 70 Legal and financial accountability are built in to the general requirements for companies and other formally constituted organisations. In general these requirements are properly met, although respondents to this study were aware of instances - thankfully rare- where there had been failures in this fundamental duty.

- 71 Most providers are confident that their governance structures are solid enough to provide sufficient accountability for public benefit as well as legal and financial accountability. Providers most often interpret public benefit as synonymous with value for money.

“We have got to be providing value for money and so we are always looking at doing things more efficiently. The way we do business is counting the pennies, not doing anything extravagant. It’s common sense and good housekeeping. We’re aware of having to achieve more for less, and we’re up for the challenge.”

- 72 They also see it in terms of benefits for employers and learners.

“We have a responsibility to demonstrate value for money and our strategic plan mandates that we do this. The way contracts are commissioned drives behaviours - gives us measures that can be used with the employer to demonstrate economic and social value.”

“The best thing we’ve done in the last two to three years is bring [employers] closer to the programme, get them to think about the future. It’s been beneficial in two ways: it’s helped inform us and has got them thinking about how the context in the future will be different. They feed into ongoing design and the development of programmes. How do we keep our eyes on the future?”

- 73 Once again, the independent-mindedness of provider boards may be seen as reinforcing the social and ethical value of what they do, modifying and enriching what could otherwise be a mainly financial transaction with funding bodies.

“Our board engages in considerable debate about this – we are as much preoccupied with whether what we’re doing is consistent to our mission as delivering public benefit in terms of compliance.”

“We ask the question, ‘Are we doing what we should be doing?’ quite relentlessly. Also ‘How well are we doing these things?’ The LSC thinks a level 2 qualification is a good outcome, we think it’s a job. We set our own standards and don’t just use the official ones. We define our own outcomes and work out how we can measure them.”

- 74 By continually challenging the executive, strong boards insist on a level of engagement with the things that matter in their mission that goes far beyond compliance.

“The advice and the thinking coming out of the board are an inspiration and a strategic asset. They have helped us realise we have a good idea of how to help people who are struggling, now we’re looking at what we do with high achievers. Business provides the easiest way from A to B. Would we be talking about these things without the board? No – we’d be far more introspective and less external in our thinking, less quality for learners. The board will insist on certain things.”

Regulation and Compliance

- 75 Most boards and senior managers of work-based learning providers think that existing controls in the contracting and regulatory environment provide sufficient scrutiny of public value.

“There are enough checks and balances in the system for the quality of provision to be self-evident. We view it as being compliant - audited, checked and inspected. The controls are already there, they are a given. We’re expected to provide good quality and value, and if we don’t, there are the systems in place to challenge us.”

- 76 Inspection by Ofsted, together with audit and performance management by the LSC, are seen as the main guarantors of compliance.

“This is a well-regulated sector - Ofsted are quite good, so is the provider financial audit.”

“It’s done through success rates, performance, Ofsted etc. We comply with the contract and the Board understands the importance of all these.”

But excessive regulation is seen as problematic.

“We’re helping learners and employers to achieve what they want, sometimes despite the regulations.”

- 77 Customer satisfaction is another reference point against which boards reflect on whether their organisations are doing the right thing.

“There’s more than enough out there. Generally it’s about running the organisation well. We’ve got standards coming out of our ears. What employers ask us is: ‘Are you doing a good job for me/my learners?’.”

- 78 Performance management may suppress entrepreneurialism and innovation.

“We find ourselves in tension with some of the performance management levers that the sector is subject to. The main problems are with consistency in our relationship with funders, and the variable calibre of people on the ground. There could be a much more intelligent approach to performance management rather than one which means we have to do the same and continually find ways of negotiating our survival.

“The petty-mindedness of some contract managers gets in the way – sometimes they come looking for failures.”

- 79 It may be the system that is at fault in that its rigidity undermines values which the system itself claims to want.

“The government has an agenda to engage training suppliers but they are not empathetic to the character of the work that defines the sector. This isn’t an argument for sloppiness, but for case-sensitive targets. There just aren’t the mechanisms for this at the moment.”

- 80 In terms of external standards and codes guiding the conduct of boards, 10 of the 15 organisations that responded to the survey questionnaire said that they referred to one or more codes, while five did not. The codes most commonly referred to by private companies and plcs are the Combined Code on Corporate Governance (6), the Institute of Directors’ Standards for the Board (4) and the OECD Principles of Governance (2). Charities referred most often to the Charity Commission’s Hallmarks of an Effective Charity (3), NCVO’s Good Governance: A Code for the Voluntary and Community Sector (2) and ACEVO’s Good Governance Guide (1).

Risk and Sustainability

- 81 Boards of work-based learning providers are very conscious of the risks inherent in the business of delivering a service that is wholly or largely government-funded.

“It’s very important. The board spends between a third and half of its time on this, especially in the last year, because of the recession.”

“Pretty much at the top of the list. The organisation has to be financially viable.”

- 82 Risk is computed in terms of the impact of government policy on funding, and boards are sensitive to the inherent volatility of the risk.

“We’re running a business, working in the teeth of real risk. The financial risk is made worse at the moment because reforms to the LSC have not been thought through properly.”

“Finance is the strongest discipline within the board - we have struggled to get other functions as robust. They hold us to account. But they are aware of the volatilities and high risk at the moment as funding systems change.”

- 83 Some providers are critical of the balance of risk between themselves and government, and anxious that the current balance threatens their long-term sustainability.

“There’s a lot of inequity in governance in the sector. If the vision is pluralist with much more engaged training suppliers, equalising risk would be a way to bring more energy in. We keep having discussions with commissioning bodies about the transfer of risk, but in the end they don’t deliver because they don’t engage with vested interests. Government needs to take this issue seriously.”

Sector Leadership

- 84 There is no work-based learning equivalent to the 157 Group of large, successful colleges. However, some of the larger and better-performing work-based learning providers understand that they have the potential to provide leadership to the work-based learning sector as a whole. Some choose to keep a low profile.

“The board provides leadership for the business and ensures that the company is run well. We have an advisory board that does have some influence, but there are other organisations that provide leadership to the sector, such as the Association of Learning Providers.”

- 85 Others are more explicit about their wider leadership role and seek to change government policy as well as set an example.

“I think we do play a leadership role, especially in the third sector. One thing we do is to co-commission effectively. We’re keen on finding better way of managing across government and very interested in creating those models.”

“We’re taking the trouble now to get to know the local authorities. It’s part of keeping the business going but we’re also making sure we punch our weight. We do give some leadership, in a quiet way, through ALP.”

- 86 Where providers have a structured and disciplined approach to communication, it enables them to maximise the impact of their success to the outside world.

“What makes it possible to be influential is the success of the scheme. The stories we can tell means the company can make its presence felt at the right level. Standard position papers are created by leads in each area so that we get the message right and consistent. We repeat the same stories so they get through.”

“We do reach out to the rest of the sector and don’t selfishly keep our stuff – we share the agenda with SMEs in leisure, tourism and travel and retail.”

“Involvement in external boards and so on is costly, but it gives credibility to the organisation. It also means we get our voice heard and have some influence over reforms and changes. It motivates staff to know there are people in the organisation looking at the bigger picture. And it helps us give something back on employers’ behalf.”

Strengths and Areas for Improvement

- 87 Work-based learning providers are generally clear about the strengths and areas for improvement in relation to their boards (Box 10 and 11).

Box 10: Strengths

- Clarity of purpose – around core commitments.
- Challenge – high expectations of organisation and senior management performance.
- Leadership – holds the executive to account.
- Balance – equal focus on current performance and future strategy.
- Calibre of people – on the Board and in the management team.
- Non-executive directors – contributing to a position of strength.
- Close links with employers.

Box 11: Areas for improvement

- Capacity – right people to take the organisation forward.
- Accountability – sharing responsibility among Board members.
- Influence – on government skill policy.
- Employer ‘voice’ – needs to be stronger on the Board.
- Broad agenda – need to be closer to the changing landscape.
- Impact of Board on performance and sustainability.

- 88 Nonetheless, throughout the whole work-based learning sector there is clearly substantial diversity in aspects of strategic leadership. For those providers wishing to review their practice, a starting point would be to consider the specific issues of work-based learning in the context of recognised accepted practice in relation to board effectiveness. This would include work-based learning providers:

- Ensuring that the composition of the board reflects the organisation’s key activities and contains individuals with a good mix of skills, expertise and personalities.
- Focusing the activity of the board on maintaining the organisation’s viability through the key functions of planning, monitoring performance and holding to its mission and core values.
- Recognising and valuing the psychological support the board provides to the executive team, and its role in conveying messages about the organisation to partners, stakeholders and the public.
- Strengthening the role of the board by sharpening the responsibilities given to board members individually, including the chair, and improving the performance of the board as a whole.

- Charging the board with providing clear measures of the public benefit derived from the organisation's activity, in addition to discharging its legal and financial accountability.
- Continuing to focus the attention of the board on identifying and managing risk, and on improving the sustainability of the business.
- Considering how the organisation can provide stronger leadership to other providers, and to the sector as a whole, e.g. through their interaction with government and other key stakeholders.
- Identifying areas for improvement in the working of the board and taking immediate steps to strengthen these areas.

89 Future developments in strategic leadership in the work-based learning sector (and any additional research that might be required), need to be considered alongside the implications of the machinery of government changes once these are known. The starting point for this might be discussions with providers and the Association of Learning Providers at any dissemination event on this study held for the sector.

Recommendation: Possible further research on strategic leadership in the work-based learning sector needs to be considered alongside the implications of the machinery of government changes once these are known. The starting point for this might be discussions with providers and the Association of Learning Providers at any dissemination event on this study held for the sector.

90 Further work on strategic leadership and accountability in non-college-based work-based learning should concentrate on two aspects:

- Whether it would be sensible and feasible to establish a cut-off point beyond which formal structures of accountability (such as those described in this study) would be expected; and if so, what the criteria for establishing the cut-off point would be, e.g. value of contract, relative size compared to other revenues.
- Where no formal structures are to be expected (though they may exist in some providers), whether greater accountability be supplied at an aggregate level, e.g. through associations representing providers rather than by providers themselves; and if so, what such accountability arrangements might look like.

Questionnaire

Part A: About the Organisation

1. Which of the following four types most closely describes your organisation?

Type A

Organisation whose main business is not the provision of training services but which trains its own staff with a contribution from public funds.

Type B

Organisation that provides publicly-funded training to other organisations and individuals it does not itself employ as one service amongst others.

Type C

Organisation for which the provision of publicly-funded training to other organisations and individuals it does not itself employ is the main business and a major source of revenue.

Type D

Organisation whose main purpose is training, and for which the provision of publicly-funded training to other organisations and individuals it does not itself employ is one source of revenue but not the major source.

2. Which of the following most closely describes the legal structure of your organisation?

Organisation in business in its own right

- a) Public limited company
- b) Private limited company

Public sector organisation

- c) Local authority
- d) Government department or agency

Further education college

- e) General FE college including tertiary
- f) Sixth form college
- g) Specialist college

Not-for-profit/third sector

- h) Registered charity
- i) Company limited by guarantee
- j) Trust
- k) Industrial and provident society
- l) Community interest company

Other

- m) Chamber of Commerce/Trade
- n) Sector Skills Council
- o) Group Training Association
- p) Other (please specify)

3. Which of the following most closely describes the geographical scope of the publicly-funded training provided by your organisation?

- a) National – provide training in more than three regions
- b) Sub-national – provide training in one to three regions
- c) Regional – provide training in more than three local authority areas within a single region
- d) Sub-regional – provide training in one to three local authority areas within a single region
- e) Local – provide training in one local authority area

4. Which of the following publicly-funded training programmes does your organisation provide?

LSC-funded programmes

- a) Apprenticeship
- b) Train to Gain
- c) Entry to Employment
- d) Integrated employment and skills
- e) Offender learning and skills
- f) Other (please specify)

DWP-funded programmes

Please list here

5. Please provide the following information about the value of your organisation's contracts with the LSC and DWP during 2007-08 (i.e. 1 August 2007 to 31 July 2008).

- a) Value of LSC-funded contracts
- b) Value of DWP-funded contracts
- c) Proportion of total revenues accounted for by LSC+DWP funded contracts (Types B-D)
- d) Proportion of total spend on training accounted for by LSC+DWP funded contracts (Type A)

Part B: About strategic leadership

6. Does your organisation have a Board, Council, Committee or other structure that oversees the governance of 'public service' activities undertaken by the organisation, including publicly-funded education and training?

- a) Board
- b) Council
- c) Committee
- d) Governing body
- e) Other (please specify)
- f) None

Note that the term 'Board' used in questions 7 – 12 can be taken to mean Council, Committee, Governing body or any other formal governance structure.

7. Membership

- a) How many executive directors sit on the Board?
- b) How many non-executive directors are there?
- c) Are there any employee representatives on the Board?
- d) Are there any other stakeholder representatives on the Board?

8. Election/appointment

- a) How are Board members chosen?
- b) Is there a formal process of election/appointment to the Board?
- c) How long can Board members serve before coming up for re-election/appointment?
- d) How is the Chairman of the Board chosen?

9. Meetings

- a) How often does the Board meet?
- b) How long are the meetings typically?
- c) Is relevant information provided in advance of meetings?
- d) Are there minutes of Board meetings?

10. Functions

- a) How clear are the roles and responsibilities of the Board?
- b) Does the Board agree key performance indicators against which the performance of the organisation can be measured?
- c) Does the Board measure performance against these KPIs?
- d) Please rank the following functions of the Board in order of importance, with 1 = most important and 10 = least important:
 - i. defining (and where necessary defending) core values
 - ii. actively implementing principles of good conduct in public life
 - iii. building trust and confidence in the organisation
 - iv. monitoring the performance of the organisation against agreed KPIs
 - v. delivering the organisation's bottom line targets
 - vi. ensuring an effective strategic planning process
 - vii. benchmarking the organisation's performance against relevant peers
 - viii. measuring the performance of the Board itself
 - ix. communicating with key stakeholder bodies and the public at large
 - x. engaging with the local community including employers
- e) How effectively does the Board fulfil these functions at the moment?
 - i. define (and where necessary defend) core values
 - ii. actively implement principles of good conduct in public life
 - iii. build trust and confidence in the organisation
 - iv. monitor the performance of the organisation against agreed KPIs
 - v. deliver the organisation's bottom line targets
 - vi. ensure an effective strategic planning process
 - vii. benchmark the organisation's performance against relevant peers
 - viii. measure the performance of the Board itself
 - ix. communicate with key stakeholder bodies and the public at large
 - x. engage with the local community including employers

11. Outcomes of Board activity

a) Please rank the following outcomes of Board activity in order of importance, with 1 = most important and 8 = least important:

- i. ensuring that the strategic plan is achieved
- ii. ensuring that financial health is achieved
- iii. ensuring accountability and regulatory compliance
- iv. ensuring quality in service provision
- v. effectively assessing risk and supporting innovation
- vi. enhancing the reputation and competitiveness of the organisation
- vii. providing public confidence in the organisation
- viii. constructively supporting and challenging the executive

a) How effectively does the Board achieve these outcomes at the moment?

- i. ensure that the strategic plan is achieved
- ii. ensure that financial health is achieved
- iii. ensure accountability and regulatory compliance
- iv. ensure quality in service provision
- v. effectively assess risk and support innovation
- vi. enhance the reputation and competitiveness of the organisation
- vii. provide public confidence in the organisation
- viii. constructively support and challenge the executive

12. Standards

Which of these standards, if any, guide the conduct of the Board?

- i. FRC: Combined Code on Corporate Governance
- ii. OECD: Principles of Corporate Governance
- iii. IOD: Standards for the Board
- iv. ICOSA: Guidance on Matters Reserved for the Board
- v. Charity Commission: The Hallmarks of an Effective Charity
- vi. ICOSA: Governance and Management – An Overview for Charities
- vii. NCVO: Good Governance – A Code for the Voluntary and Community Sector
- viii. OPM and CIPFA: The Good Governance Standard for Public Services

Other (please specify)

Interview Schedule

1. Board membership

- a) How content are you with the make-up of the current Board?
- b) Are you considering any changes to the make-up of the Board in future? [If so, what?]
- c) How well are the skills and experiences of Board members utilised?
- d) Is the performance of Board members reviewed and appraised in any way? [If so, how?]

2. Election/appointment to the Board

- a) How does the organisation try to ensure that the Board has people with a good mix and balance of skill, experience, motivation, and background?
- b) How content are you with the current process of election/appointment to the Board?
- c) Are you considering any changes to the process in future? [If so, what?]

3. Board meetings

- a) How would you describe the dynamics of Board meetings?
- b) What are the main outcomes from Board meetings, in general terms?
- c) How content are you with the way Board meetings are conducted?
- d) Are you considering any changes to Board meetings in future?

4. Board functions

- a) What are the key functions of the Board in your view?
- b) What decision-making powers does the Board have?
- c) How would you describe the split of responsibilities between the executive management team and the Board?
- d) What does the Board do that the management team doesn't do?
- e) What needs to happen to improve any areas in which the Board is not fully effective and what steps are being taken in this direction?
- f) What mechanisms do you have for reviewing the effectiveness of strategic leadership and accountability beyond those required by Ofsted and the LSC?

5. Outcomes of Board activity

- a) What are the main outcomes from the activities of the Board in your view?
- b) What needs to happen to improve any areas in which the Board is not fully effective and what steps are being taken in this direction?

6A. Chief executive's/senior managers' view of the Board

- a) How would you describe your attitude to the Board overall?
- b) What is the interaction like between you and the Board, particularly the chair?
- c) Are there – or have there recently has been – any areas of substantial disagreement between the Board and you or your senior management team? [If so, what are/were they about?]

6B. Chair's view of the executive management

- a) How would you describe your attitude to the management of the organisation overall?
- b) What is the interaction like between you and the senior management team, particularly the chief executive?

- c) Are there – or have there recently been – any areas of substantial disagreement between you or the Board and the chief executive or senior management team? [If so, what are/were they about?]

7. Self-/shared regulation

- a) Would you like to see greater commonality in the structures and processes of strategic leadership across the sector, or is a plurality of means likely to be more effective?
- b) Do we need Boards or other formal structures in order to provide leadership?
- c) Do we need them in order to provide accountability and demonstrate public benefit?
- d) How important are Boards and other formal structures in the management of risk, financial health and sustainability?
- e) Can we manage these things effectively without Boards?

8. Standards and codes

- a) How important is it, in your view, to define standards of performance by Boards in the publicly-funded training arena?
- b) Are existing standards and codes adequate, or do we need to have separate standards that reflect the mission and values of publicly-funded training?

9. Contractual requirements

- a) What – if any – contractual requirements exist for strategic leadership and accountability? For example, is there any requirement that your organisation should act in the best interests of the sector concerned or in the public interest?
- b) Are any Nolan-type principles stated in the contract with which strategic leaders in your organisation must comply?
- c) How would you view it if stipulations about ensuring the public interest were built into future contracts?

10. Good practice and areas for improvement

- a) What, if anything, works particularly well in the strategic leadership and accountability of funded learning in your organisation?
- b) What are the areas that need to be improved?

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