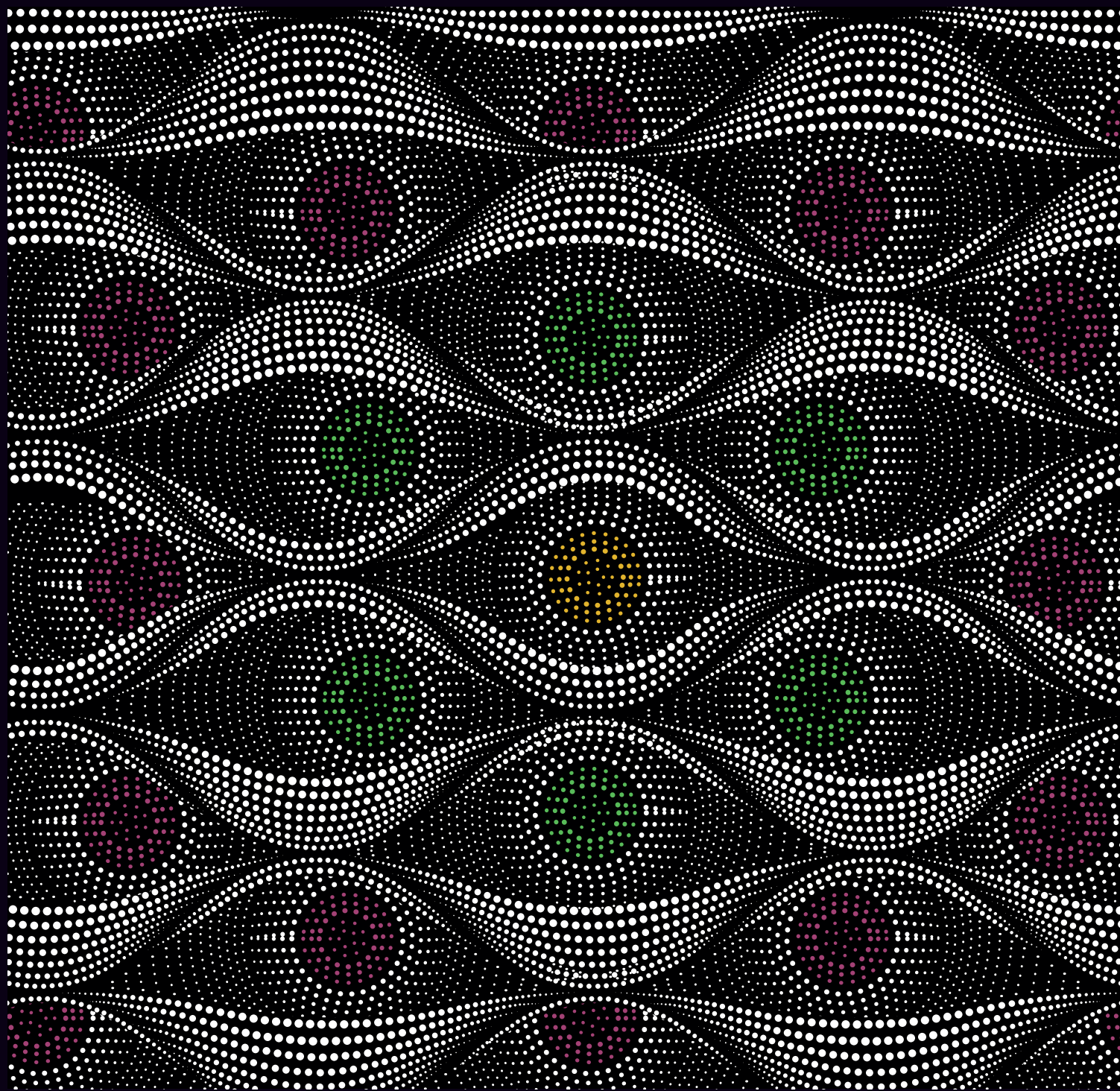


Holding public services to account

APRIL 2016

The role of non-executives



This is the third in a series of *PF Perspectives* produced by CIPFA and *Public Finance*. They are designed to stimulate discussion and debate on key public finance and policy issues. These essays, by leading public sector practitioners and governance experts, focus on the critical role that non-executives play within government, on public service boards and across the sector at large

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These are fascinating times for public services. On the one hand, prolonged fiscal consolidation is squeezing the pips of public spending, a reality that is undeniably uncomfortable for many.

Conversely, necessity is once again proving to be the ever-creative mother of reinvention, as reform and transformation sweep through all levels of government.

With widespread devolution, new structures for local government are emerging that will force us to rethink traditional models of governance.

The integration of health and social care offers an opportunity for better outcomes and, hopefully, ever-greater efficiency. But these two great ships of state will need a strong steer to align their structures and governance, and ensure that local accountability and the needs of local populations are met.

Equally, the transfer of schools away from local authorities towards a new legal status and a different form of organisation – within multi-academy trusts – presents entirely new challenges and requires new knowledge and skills on their governing bodies.

In this wide-ranging collection of essays, we hear first hand how the role of 'non-executives' in the public sector, whether appointed or elected, needs to change with the times too.

As public sector organisations undergo their journeys of transformation, it is incumbent upon their boards to closely reflect the needs of service users, hold the executive to account and drive forward the necessary change and improvement agendas.

In doing so, they must bring to the table not simply experience but the range of technical expertise that modern digitally driven organisations demand. They must also reflect the communities they serve in all their diversity.

Failures in public sector corporate governance have been all too frequent. To learn from Rotherham, Mid Staffs or Kids Company, we must recognise that these failures in corporate governance are not an abstract concept but invariably are all too human in their origin.

Whatever the root cause of failure – groupthink, personality cults, cover-ups or collusion – it is only through clear leadership and rigorous examination of our processes, people and power structures that we will ensure good governance prevails.

I hope you take as much from these contributions on holding public services to account as I have, and share the learning and insights from them in your organisation.

As ever, we would welcome your critical feedback and input.

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THE BIG PICTURE

The central challenge

Whitehall non-execs can play a powerful role at the heart of government. But to do that, they need more teeth



BERNARD JENKIN MP

THE ROLE OF non-executive directors (NEDs) in government was formalised in 2010, initially under Whitehall’s ‘lead’ non-executive, Lord Browne of Madingley, and now under his successor, Sir Ian Cheshire.

Since that time, the number of non-executive directors within Whitehall has steadily expanded. At the last count, there were nearly 70 NEDs across the 16 ministerial departments and HMRC.

Seventeen of these are lead non-executives, with additional responsibilities for supporting the chair of their board, usually the secretary of state.

The role of government non-executives has five stated aims. These are to bring strategic clarity, commercial sense, talent management, results delivery and management information to the boards they serve. Opinions are mixed on the results so far.

The public administration select committee took evidence on the role of non-executive directors in the civil service in 2012. Lord Browne, at the time the government’s lead non-executive, stated that permanent secretaries were responding well to NEDs and had begun to use them as advisers on major project delivery and other complex operations.

However, corporate governance expert Andrew Kakabadse, of Cranfield University, had previously told the committee that the establishment of departmental boards of non-executives would “not only reinforce silo mentality but also create irritation with external non-executive directors, because they find they are helpless. Their hands are tied. I think you will make things worse.”

So what is the current picture?

It is instructive to see where the lead non-executive director, Sir Ian Cheshire, feels NEDs will be able to contribute over the coming year. Many of the priorities he has set out in his annual report match the aims of the permanent secretary for the Cabinet Office, John Manzoni, for improving the civil service.

Talent management

Better talent management is one important ambition. This strikes me as a key area where NEDs can use their experience to help departments evolve an improved career structure.

The endless moving around of civil servants across Whitehall undermines their ability to develop the depth of experience in subject knowledge needed to operate at the highest levels in government. This has proven to be particularly poor in some departments, such as the Ministry of Defence.

There has also been a failure to develop skills; this is something Manzoni recently highlighted in evidence to my committee. Civil servants who have inadequate project management experience or training can easily find themselves in leadership roles for which they are not equipped and lack the capacity to properly execute decisions.

Meanwhile, the National Audit Office continues to report on projects failing because of poor governance; in the latest case – e-Borders – the NAO describes how senior civil

+
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administration select
committee

'It appears that the Treasury's board virtually never meets – and that the attendance of junior ministers at departmental board meetings has dropped since 2013/14'

servants are still being rotated through the leadership of the programme and making poor use of the data supplied by the Home Office.

This problem is not peculiar to any one department. Using NEDs to assist in the delivery of major projects is therefore essential, and was also mentioned in this year's lead non-executive report.

There are other troubling revelations in the report. For example, it appears that the Treasury's board virtually never meets – and that the attendance of junior ministers at departmental board meetings has dropped from 73% in 2013/14 to 60% in 2014/15.

I also find it disheartening that so many non-executives come from similar backgrounds. Although the proportion of NEDs from the public sector continues to fall (from 12% in 2014 to 6% now), 61% have a background in either professional services (defined as legal, consulting, health or academic) or finance. If boards do not have a breadth of experience, they cannot operate as a board.

Influencing outcomes

How, then, might the government's NEDs tackle the issues they face? Lord Browne told us that they can seek to influence leadership, much as a board might do in a private organisation. The extent to which this is working is hard to measure and almost certainly differs widely between departments.

The civil service staff survey has measured since 2009 a steady improvement in perceptions of some aspects of leadership; for example, 6% more civil servants now believe that their organisation as a whole is managed well. However, it is hard to disaggregate the effects of NEDs here from those of other initiatives.

One promising development is that some NEDs are now helping to mentor senior civil servants who are on the road to becoming permanent secretaries. They have also stepped forward to assist departments in crisis.

Non-executive board member Tim Breedon, for example, led a review of the Ministry of Justice's contract management function after G4S and Serco over-billed for electronic monitoring contracts. The review he led became the basis, alongside work by the NAO, for the department's reforms to its contract management function.

Sir Ian Cheshire has said that NEDs have demanded monthly management information – even when a board meets less frequently – and have got departments to update their measurement of risk. Since 2014, NEDs also evaluate the performance and set the pay of permanent secretaries.

Much of what we have heard about the role of NEDs has focused on their importance in sharing expertise and bringing increased management rigour to departments. It is vital that another function of the board does not get lost in this. Boards are not only there to ensure that efficient decisions are taken – they also must ensure that departments maintain their mission and their values.

In some cases, NEDs have played a key role in sustaining a department's values, for example in the Department for Business, Innovation and Skills, by taking a personal interest in improving diversity in appointments to arm's-length bodies and within the department. However, it is hard to see how these so-called 'directors' can exert real influence without any legal responsibilities for the power to 'direct'.

There are two key ways forward. First, NEDs need to be secure in their posts. After the general election in 2015, it was troubling to see the Ministry of Justice lose all of its NEDs in July. This meant there was no continuity in any of the important board committees. It also sends a signal to the rest of Whitehall that non-executives can be easily dismissed.

Second, NEDs need to continue to make advances in improving Whitehall's governance. Too many projects come before my own and others' select committees in which it is clear that there was no senior civil servant in charge, data was not being collected and the department was unaware until the moment of crisis that a crisis was upon it.

Sir Ian Cheshire wants to move forward in this regard and I welcome his intentions. Hopefully in future, select committee chairs will not be spending so much time reminding the civil service to enact these basic governance structures. The question remains, though, whether Whitehall NEDs should be put on a statutory footing, and given fiduciary duties – rather than remain the mere shadow directors that they are today. ●

It's about the people, stupid



Non-executives need to focus on the people who make our public services tick. Nowhere is this clearer than in the NHS



ED SMITH

WHAT MAKES FOR a really effective public sector non-executive? Probably one of the most important qualities they need is resilience. The ability to relentlessly facilitate change, the staying power to cut through process and bureaucracy, and focus on what's important – this, in my experience, is worth its weight in gold.

A successful non-executive director (NED) also needs a special kind of wisdom, one based on deep knowledge gleaned from on-the-ground experience in many different business and operational settings. This means understanding the overriding importance of people – as distinct from process and structure – and of change mechanisms, such as digital transformation.

A good non-executive chair gets all this, and focuses single-mindedly on the people and change agendas. Picking the right CEO, choosing the right team and creating the right culture are key ways to make organisations effective, promote collaboration and break down boundaries.

NEDs are potentially in pole position to facilitate these improvements. They work in what I call the 'grey zone' – engaging with stakeholders and policy-makers through the back door, going behind the scenes, influencing, enabling and mentoring.

There are some fantastic examples of non-executives doing precisely this, right across the public sector. In my own experience – for example, in transport, higher education and the NHS – I've seen just how transformative their input can be. They understand, deep in their DNA, that there's a lot more to the job than just tick-box governance; that the skills required are more anthropological than technological.

However, it also has to be said that the non-exec community has its fair share of 'badge collectors', and is still too pale, male, stale – and middle-aged. It has yet to fully reflect the multicultural, heterogeneous, digitally driven world we live in.

Improvement agenda

So how do these general observations translate in the context of the health sector, an area facing some enormous challenges at the present time? Monitor and the NHS Trust Development Authority are merging to form a new regulatory body, NHS Improvement, which has an ambitious agenda to face up to these challenges and drive change.

As chair of the new organisation, I am acutely aware that our 1,500 non-executives have an enormous contribution to make, whether at the national or local trust level.

The problems facing NHS trusts are well documented: soaring demand on already severely stretched services, particularly from a rapidly ageing population; fragmentation and lack of flow within the system, most notably between health and social care; inadequate workforce planning; and failure to harness the potential of digital technology – all against a backdrop of what NHS Improvement's CEO, Jim Mackey, predicts will be a "firebreak" financial year.

It may not be within the gift of NHS NEDs to resolve many of these highly charged and very political issues. Yet the sheer scale of the health service – 1.2 million employees in England delivering over 250 million contacts with patients every year on a budget in



Ed Smith is chair of NHS Improvement

excess of £116bn – means that the non-executive input can have a disproportionately large impact on the public.

This is particularly true when it comes to improving the quality of patient care. The very best NEDs (often those from customer-facing backgrounds) clearly articulate the voice of the health service consumer. They roll up their sleeves, visit wards and talk to patients, clinicians and staff about what is good, bad or indifferent in their localities.

They cut through all the data-driven targets and metrics and, instead, sniff out best practice – and ask why it isn't happening elsewhere.

Why aren't there more trusts like Luton and Dunstable, bringing primary care into accident and emergency departments? Or like Yeovil, serving its ageing population by building residential care facilities next to hospitals? And why isn't everyone following the example of University Hospitals Birmingham, which has vastly improved the flow of patient data through the simple tactic of getting its nurses to use iPads?

If NEDs are smart and enquiring – in other words, if they actually talk to people as opposed to glad-handing them – they can play a critically important role in disseminating cost-effective good practice throughout the service.

They also need to apply this spirit of forensic enquiry to the financial challenges the NHS faces. Two thirds of health trust costs go on paying their people. NEDs should be asking more questions about, for example, the costs of agency staff, about savings to be made from shared back-office services, about the supply chain – and about the reserves finance directors keep in their right-hand drawers. We need greater transparency all round if we are to get NHS budgets back in balance.

Do health service NEDs have the necessary skill sets to do this? Some do, some don't, and there is certainly scope here for more mentoring, training and hands-on input to boards from the best leaders across every sector.

However, all non-executives are capable of at least asking the right “why not?” questions about efficiencies and savings, and encouraging and cajoling their colleagues to rethink these issues.

These generic skills – focusing on behaviour rather than structures – are ones that many NEDs have in spades, thanks to their backgrounds in business, commerce and professions. They bring a fresh perspective to deeply entrenched problems, and can potentially help break down some of the silos and boundaries that hold back progress in the NHS.

‘The very best NEDs roll up their sleeves, visit wards and talk to patients, clinicians and staff. They cut through data-driven targets and, instead, sniff out best practice – and ask why it isn't happening elsewhere’

Bridging the divide

One of the most intractable is the damaging disconnect between health and social care that, as everyone knows, creates huge logjams in both hospital and community settings. At the root of this cultural and professional divide are profound funding issues, which NEDs can do very little to affect.

Nevertheless, attempts are being made to bridge the financial divide between the health system and local authorities, whether through the Better Care Fund, joint planning within local health economies or the new NHS vanguards. NHS non-executives can do much to promote these initiatives, working across boundaries to improve co-operation and encourage conversations, for example about population-based pricing mechanisms.

There are no quick fixes, but there is widespread recognition that health and social care integration is now an urgent national necessity. NEDs, in this area as in so many others, can help to catalyse that change.

One other area where, optimistically, silos are breaking down is within the arm's-length organisations that monitor, inspect and regulate our health and care services. NHS Improvement, as already mentioned, is on a long-term journey to engage with providers, create greater capability and drive change within the health ecosystem.

Part of this process will involve engaging much more closely with clinicians, nurses, managers, patients – in fact, everyone intimately involved with the system. We particularly want to do this at a regional level, bringing grassroots knowledge to bear on the challenges the NHS faces.

The Care Quality Commission, the Health Service Ombudsman, HealthWatch and many others are all on board with this grand ambition. Ironically, the pressures the NHS is having to confront have created the best chance in years of promoting a people-centred strategy across all agencies, thereby improving collaboration and shared functions.

It's an exciting time to be driving NHS improvement. And NEDs, without a doubt, are a vital part of the story. ●

Those wicked governance issues

How should NEDs operate in an era of continuous change? By looking outwards to public service users, not upwards or inwards to official bodies



VICTOR ADEBOWALE

GOVERNANCE IN THE public sector is the work of brave people; the rewards are few and the risks heavy. If recognition is your thing, do something else. If it's the desire to change the world, you'll need the vision of a god and the patience of an angel.

That's what someone (who shall remain nameless) told me back in the 1990s – the years of Cool Britannia, the third way and money. Remember them?

Those who lead the public sector, whether as executive or non-executive board members, sense we are going through a period of change, loosely called 'austerity'. However, anyone who thinks austerity is the only problem does not understand the nature of the challenges that public sector governance faces.

Austerity has the sense of ending some day; you might think that, if only we can get through the next three years, the sun will shine once more in the land of plenty. I think this misses the point and misunderstands where public services are at post-2008.

Change is a constant in public services. The issue as regards governance is that the money is always going to be a symptom of a deeper need to reassess purpose in a changed world. This isn't deficit denial – I know we are being driven to do more with less. But the kind of episodic thinking that often consumes boards is a serious challenge to the future of services to the public.

Take devolution in Manchester. This is not just about money – it's also about the realisation that demand is no longer static. In the words of Barry Quirk, chief executive of Lewisham: "We live in an age where we have liquid demand and frozen service."

In such a world, having enough money is not the only challenge. How it is spent – and how we know we're getting outcomes that make sense for that expenditure – are key governance challenges.

A number of issues underpin how we work and the difficulties facing governance in services to the public. Alongside working within the financial constraints of the government, there is the shift in demand from municipal to personal services, from silo to integration, and from queuing for what you can get to an increasing expectation of an electronic front of house that can channel shift and manage demand.

Combined with this is the growing sense of designing with, rather than for, those using services. These changes provide both challenges and opportunities for modern boards to do things differently.

Coalition of the willing

I should explain my use of the term 'services to the public'. It may sound affected when we are more used to the term 'public service', but it is something of an itch I have to scratch.

To explain: we can easily fall into the trap of believing the distinction between what is public, private and voluntary matters to the recipient of the service. Public service is a restrictive term that places a boundary around the role and purpose of governance in services to the public. Conveniently, it allows NHS, local government, voluntary sector or private sector board members to look up to the government or trustees or shareholders as



Lord Adebowale is chief executive of Turning Point and chair of Collaborate

opposed to out to where the public is.

Services to the public are not defined by their structure – they are defined by their purpose and intention. The boards of such organisations therefore need to look out beyond organisational boundaries to the system in which they operate.

Much has been written about system leadership in this context. As former *Financial Times* journalist Nick Timmins points out in his book *The Practice of System Leadership: Being Comfortable with Chaos*, such leadership starts with a coalition of the willing, then building an evidence base, then building outwards.

This seems straightforward but it is challenging because, for many boards, building outwards is not the culture they have inherited or feel comfortable leading. In discussions with board chairs, I have found the first challenge is gathering this coalition of the willing. The notion that boards are a collection of objective individuals, brought together to hold the executive to account, soon runs into the quagmire of dysfunction if the board does not build a team.

Team building needs to be a conscious process of applied, systematic actions. Group dynamics expert Bruce Tuckman developed this idea in his ‘forming, storming, norming, performing’ thinking in 1965. A more sophisticated approach, in tune with the notion of system leadership from within, can be found in the work of management consultants Allan Drexler and David Sibbet, who spent 10 years refining a comprehensive model of team performance.

Under this scenario, teams (in this context, boards) cannot function unless they have orientation, namely an understanding of ‘why we are here’ and ‘the task of this board’. In my experience, this is often assumed and assumptions lead to surprises. Work is required to align the board with its purpose, so that everyone understands why they are on it and the context in which they are operating. Disorientated people tend to trust themselves before they trust others; roles and responsibilities need to be established to help overcome this.

Goal clarification builds an understanding of the options available and how best to resolve any conflicts between individual and organisational aims. When public money is wasted, it is often because of disagreements and presumptions about what goals are being worked on and why.

Commitment, implementation, performance and renewal follow in that order. In dysfunctional boards that I have considered, one of the above stages has been missed out or mishandled, and the work has had to be revisited.

The link between building the board as a team and its role as a leader should be self-evident. If the board does not operate as a team – a coalition of the willing – it cannot expect the organisation or system within which it operates to do things differently.

There is an argument that boards can be led from outside their governance structure; that is, the community can lead the board. But, while there are examples of this, it is usually in spite of the governance structure, not because of it. It also begs the question of whether public money and time should be spent on boards leading rather than following.

Team preparation for system leadership is all about aligning the values of board members. I am struck by the contrast in performance of boards that do and do not spend time thinking about these issues. The observations from Mid Staffordshire NHS Foundation Trust and the collapse of HBOS expose the misalignment of values between board members, governance, managers, patients and clients. In this context, I often wonder why the skills necessary to build governance teams are called ‘soft skills’ when the results of not having them at the top are so hard for those receiving the services.

Continuous change

The development of governance teams and system leadership are essential in an era of continuous rather than episodic change. There have been at least 13 restructuring changes to the NHS since 1990; local government has fared little better with cuts (or savings, depending who you are) of £40bn. These factors have led to major shifts in how organisations operate structurally.

A culture of episodic change breeds a governance of survival, whereas one of continuous change builds a governance of engagement. Continuous change encompasses austerity, demographic change, changes in demand and attitudes towards services to the public. These, in turn, create pressures for demand management and channel shift.

The continuous change challenge poses two questions for non-executives and governance structures. What is their purpose in this organisation? And do they meet both the intentions of the board and the needs and wishes of the tax-paying public? ►

‘Austerity has the sense of ending some day; you might think that, if only we can get through the next three years, the sun will shine once more in the land of plenty’

◀ As regards boards, three types of people spring to mind: municipalists; talkers; and doers. Municipalists consider the board's purpose is to protect the services they own, not necessarily the interests of service users or the wider community. Their mission, in the words of a voluntary sector colleague, is to "cut everyone else's services except their own, even if their own are rubbish".

Talkers are just that; their boards talk about change, vision, structure and so forth. And, driven by a sense of blue-sky thinking, they are often in the process of restructuring. Unfortunately, this rarely translates into actual service change but instead into a more eloquent expression of municipalism.

The third type of board member – the deliverer – considers the board's purpose is to ensure services to the public are provided in a way that is flexible, customer-led and, as much as possible, jointly designed.

This means that the staff and the organisational culture need to be flexible, and seek alignment between customers, the frontline and managers. It also means holding the leadership to account for the expression of corporate values.

Deliverer boards work as a team and exercise the principle of triangulation in their search for information beyond the merely quantitative. They encourage 'management by walking about', seeking and using the views of staff and customers to build a collaborative culture.

The only way to thrive in a continuous change environment is to have an umbilical cord linked to staff and community. The 'either/or' world of rapid episodic change has morphed into a world of continuous adaptation and learning through collaboration. In this context, governance has to be collaboration-ready; and, by building a team and becoming a deliverer board, create the means to this end.

In the 'and/and' world of continuous change, the most precious resource that governance has the capacity to control is not money but time. Non-executives need to focus on the unique contribution they can make to the system the board is leading. What is it that governance can do that others cannot? It's a crucial question that will only be answered in practice – through developing the team, becoming a deliverer board and getting collaboration-ready.

The answers the board comes up with will provide clarity of purpose; about the use of resources, about accountability, and about the interface between the board and the executive. In this way, real learning can take place that benefits the organisation – and, most importantly, the recipients of its services to the public. ●

'I often wonder why the skills necessary to build governance teams are called "soft skills" when the results of not having them are so hard for those receiving the services'



SAME BUT
DIFFERENT

Keeping watch on Whitehall

Central government's corporate governance code sets out the responsibilities of non-executive directors. The reality, though, is rather different

ESSAY



EMRAN MIAN

THE ROLE OF A non-executive director in central government is highly complex, and very different from the equivalent role in the corporate world. There is also something of a gap between Whitehall theory and practice in this area.

This is something I experienced first hand as a civil servant tasked with helping introduce new departmental boards under the coalition government – and, subsequently, with running the programme for 18 months.

I was reporting directly to Lord Browne, at the time the lead non-executive for the Cabinet Office as well as for central government as a whole. The term ‘lead non-executive’ probably requires some explanation.

The first thing to say is that the idea behind the programme was to build – and this was achieved – new boards for 17 central government departments, including all the big spending and operational departments as well as the two halves of the centre, the Treasury and the Cabinet Office.

It was intended that the membership of each board should be made up of, ideally in something like equal numbers, the political executive, the civil service executive and a new non-executive team. This too has been achieved. The political executive is led by the secretary of state, who chairs the board as a whole. The permanent secretary leads the civil service executive. The lead non-executive is at the head of the non-executive team. Each department has between three and five non-executive directors (NEDs) in total.

As well as contributing to the governance of their own department, these NEDs meet within a wider network to discuss cross-governmental issues. From time to time, they also come together in a more ad hoc way to focus on specific themes. So, during my time working for Lord Browne these included, for example, the control and execution of major projects and the perennial issue of improving management information.

Most of what I have described is inscribed in a corporate governance code. That code, as it applies to central government, was rewritten when the programme was launched. It all seems perfectly orderly, impeccably logical, clearly organised and, needless to say, in practice it is very different. Specifically, there are two ways in which the complexity of real life transforms the theoretical design.

Not in the plan

The first is what I will call, a bit mischievously, personality. Personality shapes corporate governance in every type of organisation. There are robust chairs of boards and ones who take a gentler line. There are mercurial chief executives and tamer ones. Central government departments are no different.

There are some specific characteristics around senior leadership selection that increase the importance of personality. For a start, secretaries of state are not appointed on the basis of their ability or experience in chairing a board. In a corporate setting, the chair usually meets this threshold condition at least; this is not necessarily so in central government.

Then, not all secretaries of state are tightly bonded with other departmental ministers



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in a team. This is hardly surprising, not least in a coalition but in fact in any government, for the simple reason that the secretary of state does not appoint the other ministers – the prime minister does.

What is more, the members of the civil service executive are not selected by the chair of the board either. The secretary of state has a greater role in appointing the non-executive members. Though, even here, I know that I was often pushing for secretaries of state to consider non-executives who brought specific skill sets to the department, rather than the non-executives who the secretary of state may have preferred to have.

The combined effect of these factors is that departmental boards do not start their work with the network of trust and close relationships that can perhaps be more commonly found in other organisations. So starting up and developing a common vision and even a common set of working practices takes longer. And the form that these take may not be that envisaged by the corporate governance code.

Equally, quite basic premises can remain contested between board members; levels of motivation and mutual confidence in each other's ability can be low, which is especially challenging when important programmes are off track or rapid change is required.

Improving governance on this front is a slow process, with perhaps a constitutional limit as to how far it can go. Putting the secretary of state ultimately in charge of the appointment of everyone on the board would be a huge change, requiring a different relationship between the civil service and politicians as well as a reduction in the power of the prime minister. I do not venture a view on whether this is desirable.

However, there has been gradual positive progress on other aspects of the personality challenge, as I have styled it. For example, both civil servants and ministers are spending longer in each post, hence it is more likely that there is enough time for the network of trust and close relationships to develop. Equally, civil servants – long aware of the need to build good relationships with ministers – are increasingly focused on working with and learning from NEDs. The lesson in terms of the corporate governance code is that the nature of central government requires more flexibility built into its terms – and its application – than may normally be envisaged for other types of organisation.

Complex governance

The second reason why the complexity of real life disrupts the ideal world envisaged by the introduction of departmental boards and NEDs is the nature of the government's activity. I met regularly with the lead non-executives of each department, particularly during my time running the programme. Their most common comment by far, repeated even when they had been in role for quite some time, was that the nature of what central government does – and supervises – is more complex than what they are accustomed to in corporate life.

Perhaps this comment was sometimes borne out of frustration, and I am not necessarily the most reliable reporter. Having been a civil servant for a decade, I may very well want to impress on you just how complex central government's work is.

Nevertheless, there are some more objective ways of thinking about the issue: numbers of delivery bodies; size of budgets; and then, in conceptual terms, the fact that the government is typically acting specifically because what has to be delivered is beyond the capacity or capability of the private sector.

When markets fail, the government picks up the pieces. In this context, it's no wonder that departmental boards – and the role of non-executives – are shaped deeply by the complexity of what needs to be accomplished.

In practice, this means, for example, that management information is incredibly important, yet difficult to obtain. Identifying risks is easier, but there can be so many that deciding which to prioritise and how to manage them is a big challenge. I have already mentioned the key role of major projects. This is an issue on which Lord Browne was hugely focused; his successor as government lead non-executive, Sir Ian Cheshire, has returned to the same theme.

The government is often trying to deliver projects that are so large in scale and ambition that the planning stage, even before sign-off, needs to be long and painstaking. But the pressing nature of the outcomes that the project is intended to achieve mean that this time is not provided. Once again, theory suggests one thing; practice demands another.

The path to improvement on this set of issues is, I believe, even more fraught than those that I have described earlier, connected to building strong relationships between board members. The complexity of what central government does is not going to ease up; and the accountability, political and otherwise, that the members of the executive ►

 'It all seems perfectly orderly, impeccably logical, clearly organised and, needless to say, in practice it is very different'

◀ experience for managing this level of complexity should not diminish either- it is essential to our system of government.

But this opens up a very specific role for NEDs too. Precisely because they are not in the line of fire in the way that executives are, they can sometimes explore ways of managing complexity and propose solutions that the executives cannot.

This was the case, for example, in relation to rail franchising. Sam Laidlaw, the lead Department for Transport non-executive at the time, took a close look at the process after the West Coast franchise competition collapsed. His review paved the way for wider work which, in combination with political commitment from the secretary of state and astute management by the civil service team, made franchising viable again.

In this case, the three parts of the board combined to powerful effect. It is not the only example where government non-executives have played a very constructive role, but it remains likely that there are fewer examples than there should be of this kind of initiative.

Overall then, the potential of NEDs in central government has yet to be fully realised. There is plenty more for them and for departmental boards as a whole to achieve. However, it is critical not to get trapped into assuming that their performance should be judged by a measure or model taken from the commercial sector.

Many of the things that central government does could benefit from a more commercial mindset, or simply from the application of cutting edge technology that tends to be adopted more quickly in other settings.

However, when it comes to corporate governance, we need to recognise that central government is a very different world and will remain different, even as it gradually improves its performance over time. Not that this is an excuse for inaction – or for failing to adopt a sharp and continuing focus on making Whitehall governance work better. ●

‘When markets fail, the government picks up the pieces. In this context, it’s no wonder that departmental boards – and the role of non-executives – is shaped deeply by the complexity of what needs to be accomplished’

Why we need critical friends

Non-executives' vital job of oversight is being undermined by a lack of buy-in from public sector leaders. Yet scrutiny is more important than ever as austerity bites and devolution forges ahead



ESSAY



JACQUI MCKINLAY

WHY IS SCRUTINY so essential to good decision making? In its many variants – from formal parts of governance to ‘armchair auditors’ and media investigations – scrutiny of public services is fundamentally based on the principle that the person or group of people who make a decision should not be the only ones to review or challenge it.

It’s a principle that should be applied to all aspects of public services and business, and it is central to the effective functioning of our democratic institutions.

Bound up with this democratic and pluralist ideal is the value placed upon toleration of difference and dialogue – concepts thrown into sharp relief by the terrorist attacks in Paris last November, and subsequent developments. In the aftermath of those attacks, much was written in defence of our democratic institutions, and the principles underlying them.

As Jonathan Carr-West, chief executive of the LGIU, and a Centre for Public Scrutiny (CfPS) trustee, argued shortly after the Paris attacks: “Democracy holds that every voice and, by extension, every person has equal value. It holds that value emerges from debated difference. Most of all, democracy requires that we agree to differ.”

This belief underpins value-driven public bodies, and is the foundation stone upon which our governance and public scrutiny structures and processes were created.

We know that scrutiny by people outside the leadership group is essential for good decision making, design, implementation and service improvement, particularly when those doing the scrutinising are focused on common outcomes and organisational goals.

We also know that democracy itself – and how it manifests itself within the public realm – is far wider, more deliberative and complex than merely the space occupied by our elected politicians. This is where the role of the non-executive – those people who play a crucial part in supporting, challenging and holding our leaders and decision makers to account – comes in.

The challenge

The scale of the challenges facing public services is unprecedented and the response required is multifaceted, including a radical shift in the relationship between the citizen and the state and the transformation of public services through commissioning, integration and devolution.

Common sense would tell us that now more than ever we need public sector non-executives, whether in the form of backbench councillors, school governors, clinical commissioning group lay members, trustees or board members.

Their value is hard to dispute and few would publicly dare to do so. However, our experience and evidence show that their influence in some areas is being eroded, ironically, often by precisely the same factors that make their input so critical at this time.

Each year, CfPS undertakes a survey of councils to assess what’s happening in relation to scrutiny. The past year has seen a continued decline of resources (both people and money) allocated to scrutiny activity, despite 80% of councils planning major transformations of their services. ▶



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Scrutiny*

◀ In these councils, only 19% said that scrutiny will be heavily involved in service transformation, 22% said it will have limited to no involvement and 36% said scrutiny will not be involved in major changes in the future. Worryingly, 18% said scrutiny was not able to expose wrongdoing or poor decision making.

This is particularly concerning given the tragic consequences and headlines relating, for example, to Mid Staffordshire NHS Foundation Trust and the Rotherham child sexual exploitation scandal; a lack of effective scrutiny was cited in both cases.

The survey gave reasons why non-executives are less involved than they should be: commonly, it is due to a lack of leadership buy-in and support for scrutiny and challenge.

This often comes down to a view that scrutiny adds little value or is not relevant to the real world of cutbacks and radical change. Also, it is seen as slowing progress and offering a chance for others to gain political advantage in politically led organisations.

All of these may be legitimate concerns but, fortunately, are not immovable obstacles. In fact, they further enhance the argument as to why change is essential on both the executive and non-executive sides of the equation.

A lack of understanding of the value of scrutiny and the role it can play in effective governance or decision making is another reason for the low status accorded it in some public sector organisations. On a more basic level, this is the 'we are in charge, we know best' mentality.

Often, in these cases, non-executives are sidelined from the decision making process and denied the chance to contribute, scrutinise or challenge. Or they may be working hard, looking at important issues but not at the critical, tough decisions that will be leadership priorities and potentially affect service users the most.

Another factor undermining the value of external scrutiny is the dwindling professional support that is available to make it work. Shrinking budgets mean reductions in staff in many organisations, often those in back office functions.

Commitment and dedication from non-executives will still be there and in some cases can maintain itself. There are many excellent examples of this, including in the housing sector, where effective tenant-led scrutiny has been sustained with minimal organisational support.

However, there are many more examples where scrutiny is losing momentum. This manifests itself in some basic areas such as recruitment, training, support and guidance, and also in more challenging tasks such as developing scrutiny and governance to meet changing business needs. Most of these are beyond what your average non-executive, paid or unpaid, would be expected to undertake.

Changing mindsets

So, given all these challenges, what does 'good' look like? Good is when non-executives and executives are truly representative of society at large. There are significant challenges when non-executives are always drawn from particular sectors; achieving diversity is sometimes not even an ambition.

The best results happen when non-execs and executives are working together, focused on the same outcomes, and working hard to arrive at the best solution within the resources available. Roles are understood and respected and time is created for them to be undertaken as part of the formal governance framework. To achieve this will require change – in particular, to the mindset and practice of our non-executives and decision makers.

This change must now also take into account the integrated way that many public services are operating or aspire to operate. Devolution and public service transformation will see traditional organisational boundaries removed and potentially create further complexity for non-executives to navigate. This is all manageable if we apply the same outcome focused approach; however, it is a further demand that needs to be recognised and supported.

If we know what good looks like, what steps are needed to bring about that change in mindset and practice?

There must be leadership buy-in and support for the role of non-executives. They must be recognised as a formal and positive part of governance and decision making processes – one that can help improve outcomes in the most efficient way possible. Good leaders and organisations welcome scrutiny and involvement from other stakeholders.

There must be ruthless and consistent prioritisation by our non-executives as to where they spend their time and what they focus their energy on. Fewer resources mean this is inevitable – but it is also a positive opportunity to focus on what really matters to service

'Non-executives are less involved than they should be: commonly, it is due to a lack of leadership buy-in and support for scrutiny and challenge'

users (based on evidence) and where they can make the greatest difference.

We also need a more flexible approach to how non-execs operate. Gone are the days when a meeting held every six weeks with a pre-planned standing agenda, running for many hours in a stale committee room, fits the bill.

We need to look at more creative ways to get people involved and equipped to contribute, and to represent their wider stakeholder groups where appropriate.

Deliberative techniques such as co-production are available, as are mechanisms such as intensive inquiry days. We also need to become better at using technology to turn data into intelligence, and to engage and interact.

Organisations must draw on wider support for the non-executive role, both from within and from their partnerships and national connections. It is the responsibility of the whole organisation – not just a single dedicated team – to make governance and scrutiny work.

Ensuring a wider understanding of the role and purpose of non-execs – and of the value they bring and who they are – will help generate the support needed to make a difference. There is also much to learn from other sectors on what works and what doesn't.

All NEDs require a basic skill set including, for example, the ability to analyse information and raise questions, which could be met more efficiently through training and development opportunities across sectors and geographies. This will also promote the sharing of knowledge and experience.

Finally, with all this in place, it is incumbent on non-executives to step up and take the lead. Robustly using their knowledge, experience and skills to be the public sector's critical independent friend – and to be tenacious and determined in their pursuit of improved outcomes – requires empowerment, confidence, passion and the ability to build trust.

The government has put democratic leadership and accountability at the heart of its new devolution deals, with the requirement for combined authorities to have an elected mayor and a scrutiny committee. This is powerful recognition for the role that non-executives and scrutiny will play in a future governance model.

It is important, however, to recognise that creating the structure is the easy part. Efforts must then be made to invest in the people, relationships and support needed to create trust and understanding. This is the only way to ensure that the contribution of non-executives to public scrutiny is both vital and valued. ●

‘Gone are the days when a meeting held every six weeks with a pre-planned standing agenda, running for many hours in a stale committee room, fits the bill’

Trustees under the spotlight



Balancing charity objectives with sound financial governance is a tough call for trustees. But it is critical, as the voluntary sector takes on ever more responsibility for state services



DAN CORRY

OFTEN CHARITIES FIGHT to get press coverage. More recently, many of them have been fighting to keep out of the press. Perhaps the biggest own goal is the way a few big charities are going about their fundraising. In some cases, this verges on industrial scale direct-mailing of potential donors in ways that deluge citizens with requests they do not want.

This became a topic of hot debate after the tragic death of elderly donor Olive Cooke, who received thousands of unwanted begging letters.

Naturally, this has become a highly emotive issue. But equally damaging to the sector's reputation has been the dramatic demise of Kids Company. Until very recently, this was the prime minister's and pop stars' favourite charity, providing irresistible pizzazz thanks to its colourful CEO Camila Batmanghelidjh and its chair, erstwhile BBC head honcho Alan Yentob.

Then there is the case of AgeUK, which has been in hot water for the deals with electricity supplier E.ON that it has been promoting to its supporters. The Charity Commission has subsequently told charities they must review all their commercial arrangements, and stop "hounding" people, many of them older or vulnerable, through the use of aggressive techniques.

Many issues have given rise to these affairs, and the questions they raise are deeply controversial. But whatever the context, they without doubt put a ferocious spotlight on the importance of good governance within the charity sector – and, in particular, on the role of its trustees.

Governance is, of course, crucial everywhere. In all the areas I have ever worked in, ranging from improving public services to raising private sector productivity and making charities more impactful, getting the governance right has always been critical. Where things are not working, it is often because structures and behaviours around this boring-sounding topic are simply not up to scratch.

The governance factor

Governance is about holding those making decisions to account, setting and testing strategy, making sure propriety is fully observed and keeping the senior management team on their toes. So it is not surprising that, when things go wrong, the question often asked is: where was the governance?

However, it is not only about things going wrong. In all sectors and situations, bad governance means that an underperforming service or organisation – one that is just coasting – allocates its resources poorly, rather than living up to its full potential.

In the non-market economy, governance matters even more. In the private sector, there are forces that ensure pressure to achieve efficiency and innovation, through the action of competition and shareholder expectations. But, as I have previously argued in the course of a lecture to the RSA, these forces are largely absent in the non-profit world.

So, while a failure of governance in the private sector can certainly be catastrophic as a consequence of its scale and reach – when banks' governance turned out to be appalling,

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 Dan Corry is chief executive of New Philanthropy Capital (NPC)

every one of us suffered – it matters each and every day in the charity sector.

Here, I focus on the charity sector, but the lessons can equally be applied elsewhere. I have worked in central government, a lot with local government and also for the private sector. Some of my work in all these areas was about governance itself and how to improve it. I see a lot of insights from one sector that could be carried over to another but, all too often, are not.

One of the problems for the charity sector is that the organisations that trustees are there to govern are mission based. So there is in effect no obvious, easily observable bottom line that drives all the players and stakeholders towards a united, clear, unambiguous goal. In such circumstances, the problems that plague governance in the private sector and public sector become ever more complex and conflicted.

Take the case of Kids Company, a charity failure that illustrated many things coming together, albeit in an extreme way. They are very far from typical of the sector, but they do illustrate some important points to be taken on board rather well.

Mission critical

First, there is the problem of the powerful chief executive who the board struggles to keep to account. In this case, Batmanghelidjh was the founder, the chief fundraiser and the charity incarnate. This is often a problem for any non-executive director (NED) who is trying to hold an executive to account. How much can non-executives challenge a dominant personality? And how do they do it?

Related to this in the charity sector is a second question of whether the (very) part-time trustees know enough to challenge the executive, a problem very familiar to NEDs of companies and, indeed, to councillors trying to keep their officers in check.

Neither have enough time to really dig in to the details of the way an organisation or service runs, however much they may try to use risk registers or other devices to overcome the natural asymmetry of knowledge and information between the executive and non-executives. In the charity sector where, in addition to all this, trustees are almost always unpaid, it is even harder.

Third, there is the problem of getting the balance right. How much do you worry about the sustainability of the organisation and its finances, and how much do you focus on its mission, and on the beneficiaries and their needs?

Go one way and you easily become a conservative, risk-averse organisation caring more about your survival and longevity than about the reason you were set up. Go the other way – as Kids Company did big time, with few reserves and no way of controlling demand given their ‘turn up and get help’ approach – and you go out of business, leaving a lot of very vulnerable beneficiaries in the lurch.

Fourth, the legitimacy of trustees in charities is a bit less clear than it is in other sectors. NEDs within private companies are there to represent the owners of the company – the shareholders. That much is clear. MPs and local councillors equally have a mandate, this time from the people. Some non-profits, like co-operatives or ►

‘It is not surprising that, when things go wrong, the question often asked is: where was the governance?’

◀ mutuals, arguably have clear responsibilities to either the employees or to consumers and users.

Charity trustees, however, do not really represent anyone except perhaps the mission of the charity. That maybe makes it harder for them to always speak up or to take a neutral view.

As a way to get round this, some charities try to involve beneficiaries on their board. Sometimes that works and sometimes it doesn't. In our experience at NPC, it can in some circumstances make a charity excessively conservative and resistant to change.

Fifth, there is the problem that so many charities have – they lack data. In the Kids Company case, this lack of decent data on inputs and outputs, let alone outcomes or anything to do with cost effectiveness, would have given any board problems. Too many charities experience aspects of this.

After all, active citizens start charities because they care about the cause, not because they like numbers and management. But then they often leave themselves without the data needed to steer their ship properly.

This links to a final point, which is all about understanding the outcomes you are trying to achieve. Certainly, some of the outcomes in the social space are difficult to measure, but too many charities barely try and therefore fly blind. It means that the role of the trustees in ensuring the charity is achieving outcomes becomes virtually impossible.

So the list of problems is long. How much does any of this matter?

Running out of road

Charities, from time to time, go out of business. Arguably, too many of them struggle on when they aren't adding much net value to their cause and to society. After all, if they aren't achieving what they exist to achieve, it's probably better for them to quietly fold.

It's always sad when a lot of effort that comes from the heart runs out of road in the end. But the same applies in the private sector. We may be unhappy to see favourite names and suppliers such as Woolworths or Blockbuster go; we feel bad for the employees, and sometimes we worry about the great industrial and regional implications of big companies going or whole swathes of niche players packing up. But we can live with that.

So do we really care if charities are not governed that well? After all, it's often called the voluntary sector for a reason, so how much should we be concerned?

Well, without strong governance, the sector will be punching below its weight. And at a time when the state is retreating, that matters. One does not have to sign up to everything that was once on the Big Society agenda to believe that a healthy voluntary and charity sector makes us a stronger society and even a more effective one. Without good governance, every charity will be doing less good with the money it has available to achieve its outcomes.

Equally important, when we donate our money to charities, we want to know that they are well governed. If we don't like what we hear, we may stop giving – both money and time – to the sector. Given that private giving to charities in the UK totals over £10bn according to the Charities Aid Foundation, this is something the sector really cannot afford.

Trustees on task

Yet it is even more critical than this. In many areas of life, we want charities to be involved in delivering our public services, both the ones that central and local government commissioners pay for and those that are 'quasi' public services – including the ones provided by organisations like Kids Company.

We must all, out of necessity, worry about charities that are in danger of failing, potentially leaving crucial public services in trouble. The charity may go under – but the service is still needed.

So what can we do? Some of the answer lies in getting the bread and butter stuff right. Trustee recruitment, turnover, handling meetings properly, getting a diverse group together, keeping a bit of a gap between the board and executives, and being clear about everyone's roles – all these things will help.

More profoundly, NPC has argued for some changes to the duties of trustees to make them more clearly responsible for the impact that their charity is having with respect to its mission, so they are less focused on mere survival.

In addition, in the wake of the Kids Company fiasco, some in the sector are wondering

‘How much can non-executives challenge a dominant personality? And how do they do it?’

whether the rules around charity governance should be a bit tougher – at least for some charities. So, what if we said that, at the very least, if your charity delivers a vital service to a group that is a sizeable part of the beneficiary ‘market’ – nationally or within a town – then your trustees have to do more?

Perhaps we should compel trustees to undertake some training each year, and insist that the rather good *Charity Trustee Meetings: 15 Questions You Should Ask* on the Charity Commission’s website must be answered by trustees on a web-based system every year.

When it comes to private sector governance, governments have tried to sharpen it up over recent years (successfully or otherwise), partly because of systemic national issues around underperforming and failing firms. And, when it comes to public services, we understand the need to combine the political leadership that democracy gives us with clear, open, non-corrupt and efficient decision-making.

In the charity sector, maintaining the ability for anyone to set up a charity in a light touch, volunteer-driven governance world – while also insisting on stronger governance – is a hard call. But, as recent events show, it is crucial. ●

Back to school for governors

ESSAY

Failures in governance – and an ever-changing educational landscape – have raised the bar for school trustees and board directors. Are they up to the job?



CONOR RYAN

THE TRANSFORMATION OF school structures over the past decade has dramatically increased the importance of good governance in schools. Yet evidence from the school inspectorate, Ofsted, and others suggests that the rapid conversion of seven in 10 secondary schools and one in six primaries into academy schools has not always been matched by the improvements one would expect in strategic leadership.

This has thrown into sharp relief the role of school governors, who historically have played the role of non-executives in an educational context. It may also help explain why the ‘academy effect’ on standards has been patchy and far from universal.

Until 2010, the vast majority of schools were maintained by their local authority. That wasn’t the whole story: a significant minority (largely faith based) were voluntary aided, while others had a greater degree of independence as foundation schools. While schools were funded through the local authority, the government dictated which budget was for schools and which was for central services. School forums, including headteachers, governors and council officials, could vary such spending locally.

By the time the coalition government took office, around 280 schools – mainly once-failing secondaries in disadvantaged areas – had become or were becoming academies. These schools, representing fewer than one in 10 secondaries, were funded through an education funding agency, had charitable status, usually had sponsors drawn from charities or business and had greater freedoms over pay, the curriculum, admissions and building development. Most had strong governance systems.

New landscape

It is worth briefly examining what happened next, as it has created a very different school governance landscape. Former education secretary Michael Gove radically changed the academies programme. He allowed primary schools and schools rated as successful by Ofsted to take on academy status; and he rebranded new academies and all new schools as ‘free schools’.

With primary academies, the focus was on turning around failing schools. However, a lot of time and energy was also expended in supporting good secondary converters and promoting new free schools, which increasingly are the government’s answer to shortages of school places rather than the hubs of innovation originally imagined.

For many converters, it was a financial no-brainer: their £5m or £6m budgets would be increased by around £250k a year at a time when those without significant numbers of disadvantaged pupils eligible for the pupil premium were otherwise expecting to have to lay off staff.

Although the new academies were expected to support weaker schools locally, this was not a condition of approval. As a result, innovation was slower than it might have been and the Department for Education (DfE) found it hard to get enough good sponsors for the rapidly growing number of failing schools required to become academies.

The DfE promoted some big chains, ahead of local partnerships, to replace failing schools, and they expanded more rapidly than was prudent. The worst offenders were



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subsequently berated by Ofsted and had to surrender some of their schools. Despite these problems, the government has extended the range of schools that it expects to become academies, including those that are coasting as well as those deemed to be failing by Ofsted.

Chain reaction

The result is a programme with mixed success. The Sutton Trust looks each year at the performance of academy chains for their disadvantaged pupils – those they were originally intended to help the most. In its 2015 *Chain Effects* report, it found that, after being part of chains for three years, sponsored secondary academies had lower inspection grades – and were twice as likely to be below the minimum standard set for schools by the government.

Comparing this with 2013 data, the trust found that the contrast between the best and worst chains had increased in 2014. And, when analysed against a range of government indicators on attainment, a majority of the chains still underperform against the average for all secondary schools on attainment for their disadvantaged pupils.

Notwithstanding this, there are some great success stories. The Ark and Harris chains, schools sponsored by the City of London, and the Outwood Academies established by a dynamic Yorkshire headteacher, Sir Michael Wilkins, spring to mind.

Overall, the analysis suggests that chains within geographic clusters (making it easier to share resources), a strong ‘business model’ – with clarity across the chain on issues such as curriculum, teaching and data – and with growth at a manageable pace have succeeded significantly faster than schools generally. But the rest have performed at or below the national average.

The Sutton Trust focused on chains that had been in operation for at least three years, and it may be that newer chains do better. A wider analysis by the National Foundation for Education Research of sponsored and converter academies found that, although progress between the ages of 11 and 16 in sponsored academies (those replacing failing schools) is better than in local authority schools, there is no significant difference between converters and the remaining local authority schools. Moreover, the additional sponsored academy gains largely reflect a wider use of vocational qualifications that ministers have since downgraded because they believe they overinflate GCSE scores.

So, although the evidence on academy attainment is complex, the findings do give an indication of the challenging and ever-shifting context within which school governance has been operating – and the issues that school trustees, directors and governors have had to grapple with.

Multi-academy tasking

Meanwhile, another important change is happening in the system, which could have a profound impact if it works. Ministers have shifted their focus – after the embarrassments of the failing chains – away from national academy chains to local multi-academy trusts (MATs), which now include three-fifths of academies.

Typically centred around a successful local school (in the same fashion as some successful chains), they are selling it as a way both to achieve economies of scale and to drive up standards through a collaborative approach. The MAT will have a chief executive overseeing several schools, often both primary and secondary, which can share business, back office and teacher training functions. Only one in six primaries are currently academies, so ministers are particularly keen to see MATs bring small primaries together, perhaps with a single head, to increase the programme.

Yet there may be as big an issue with the governance of the new MATs as there has been with the way many of the less successful chains have been run.

In local authority schools, parents, teachers and the occasional community governor often made up the governing body, which often exceeded 15 members – there are around 300,000 school governors in England. While they had significant responsibilities, including over the budget and hiring of the head, it was a less daunting task than the role of a MAT director, whose responsibilities are closer to those of a business non-executive director or charity trustee. Increasingly, governors are expected to be recruited on talent rather than on their links to the schools.

The ‘Trojan Horse’ schools scandal in Birmingham – where governors were accused of putting their personal and religious ideology ahead of the pupils – was one of a number of issues that prompted Sir Michael Wilshaw, the schools chief inspector, to launch a review last November of the quality of school governance. He wants mandatory ►

“The findings give an indication of the challenging and ever-shifting context – and the issues that school trustees, directors and governors have had to grapple with”

◀ training for governors and MAT trustees, with payments for chairs and vice-chairs to attract more good people to the roles.

“In short, the role is so important that amateurish governance will no longer do,” he said. “Governing bodies made up of people who are not properly trained and who do not understand the importance of their role are not fit for purpose in the modern and complex educational landscape.” While the DfE has ignored the payment proposal, it says it is spending £2.4m on the recruitment and training of governors.

Fit for governance?

Whether there are enough volunteers of the right calibre to provide the required strategic governance is the key question, as the government continues its rapid academy expansion. A National Governors’ Association/TES survey last year showed that half of governors do not have a day job, and a further 20% get no time off for governance. So there is an important role here for employers in encouraging staff to become governors, something the CBI says it supports.

With the much more business-like approach of the new boards, such expertise will be vital. Equally, it will be important that board members as well as governors reflect the wider community. A 2014 analysis by the University of Bath for the National Governors’ Association showed that 96% of governors are white and many are retired.

The reality is that a fundamental shift in the structural operation of schools has not been accompanied by anything like the rigour needed to improve governance both locally and in national academy chains.

As multi-academy board members, trustees and directors are expected to be largely strategically focused on finance, trust-wide policies, leadership recruitment and pay, trust development and expansion, whereas school governors should focus much more on the academic attainment of their students, probing behind ostensibly good headline results.

MAT boards also need to be smaller, with specialist committees on audit, finance and pay that are MAT-wide. Sir Michael says governors and trustees should avoid “marginal issues” of day-to-day management that ought to be dealt with by school leaders. Multi-academy trusts may have budgets of £20m or more – school budgets total £46bn nationally – so audit responsibilities are particularly important.

As the government shifts from chains to MATs as its preferred schools delivery model, there is a big demand for senior people in the public and private sectors to take on all these roles. It remains an open question though as to whether this scale of ambition can attract the right calibre of trustees and governors – with the experience and vision needed to oversee the effective use of so much public money. ●

 ‘A fundamental shift in the structural operation of schools has not been accompanied by anything like the rigour needed to improve governance both locally and in national academy chains’



ALL ON BOARD

The trust imperative

Given the collapse of public confidence in many institutions, the role of non-executive directors in restoring trust is paramount



ESSAY



MARGARET CASELY-HAYFORD

THE FINANCIAL CRASH of 2008 caused a massive public loss of trust in major institutions. At first, fingers were pointed at banks. Then regulators, auditors and rating agencies were called into question.

It's one thing for players to be found to have grossly miscalculated and another for the casino to have created an environment in which misbehaviour goes unchecked or rules are ineffective.

After 2008, it became increasingly difficult to trust even long-established institutions.

Mis-selling, rogue trading, IT catastrophes, ungoverned press intrusion and banking collapses were all evidence of something rotten in the state. How could this happen if there was sufficient scrutiny at board level? How could this happen if regulators were carrying out their duties properly?

In theory, non-executive directors (NEDs) are there to ensure essential good governance within an organisation, help the executive create the right strategic direction, and create or encourage the right cultural context through scrutiny, policy and principles.

In the context of the collapse of trust post 2008, one might ask: who were the independent scrutineers, and were there enough of them? Was the role of the NEDs clearly defined, and how independent were they? Did they understand their role?

There are many other questions to ask about non-executives during the financial crash and since. Did they get paid regardless of outcome? Were they drawn from a wide enough pool, or were they part of a tight old-boys' network, benefiting from lax standards? Were they sufficiently diverse to allow courageous, independent thinking, and confident enough to make challenges? Did they have a talent for expert questioning of the executive, and did they have its respect? Did they deserve the respect of the public?

The same questions are also pertinent to non-executives in the public sector. Regulators often seem remarkably toothless and trust in public and third sector entities has been plummeting.

Suspicion of corruption at the top of football, apparent Olympian-scale drug abuse in sport, worryingly ungoverned police undercover operations and local government and parliamentary expenses abuses are examples of areas where a battalion of effective independent scrutineers is needed to re-establish public trust.

The public, rightly, expects better, and that should be respected, because we are the investors and the rights owners. Whether we realise it or not, we hold public sector bodies constantly to account.

First principles

The seven Nolan principles that govern ethical conduct in public life apply to anyone elected or appointed to public office, nationally or locally – as well as to anyone delivering public services. They also govern the standards by which public sector NEDs should oversee and hold their executive to account. So it almost goes without saying that there should be constant adherence to them.



‘An NHS trust that achieved high medical outcomes through exploiting staff or oppressive relations with suppliers could undermine public trust not only in itself but also in the brand value of the whole NHS’

High-level principles, however, aren’t enough if the way they have been translated into policies or made pertinent to an organisation are obscured, or if they have not been made clear to its employees or the public. Policies should be clear, published and easily accessible. Not doing this limits the ability of anyone to test and account for the organisation’s activities. It also makes it difficult for employees to understand what standards they are expected to meet, and for the public to understand the standards that the board is meant to uphold.

A board that cannot be held to account because it shrouds its policies and principles in a cloak of invisibility has failed to carry out an important first-line activity. A lack of transparency about the standards a board is meant to uphold renders the board pointless – deliberate obfuscation requires prompt investigation.

Clarity is taken for granted for financial standards – so why not for ethical standards or personal rights issues? The reputation of an organisation has an important ‘value’ that, once lost, is hard to regain – so its value should also be high on the balance sheet. An NHS trust that achieved high medical outcomes through exploiting staff or oppressive relations with suppliers could undermine public trust not only in itself but also the brand value of the whole NHS. NEDs should consider themselves custodians of brand value – for example, by setting themselves up as the ultimate overseers of a whistleblower policy.

Should NEDs seek to preside over a regime of total transparency? The Facebook generation knows there can be too much exposure; this is also true for organisations, for reasons such as security, personnel issues and commercial sensitivity.

With good judgment, NEDs will conclude that total transparency is inadvisable, and a balance should be sought about when transparency might need to be restricted while being able to recognise that such situations should be limited. This does not diminish the importance of transparency; misjudgment could foster a climate in which Edward Snowden-like revelations are considered justifiable.

Unlike charity trustees, whose duty is to both donors (‘investors’) and beneficiaries of the charity, the duty of public sector NEDs is primarily to the public – the taxpayer, member or ‘investor’ – and less so to the organisation. They must remember that, unlike commercial enterprises that exist to make a profit for themselves and their shareholders, public sector organisations exist to serve.

Every strategic and assurance decision by the board needs to be considered in that context. How they will support good service should be shown in a clear report in every end-of-year statement of account. This is also the case with the compilation of periodic interim statements of accountability to the public, as well as to any governing entity or government department with oversight responsibility for the organisation.

Diversity matters

Another important area for boards to consider is diversity. This is often misunderstood, particularly if limited to considerations of gender, race and sexual orientation.

In fact, it should also encompass diversity of skills, which means ensuring there is ►

◀ an appropriate mix of skills in an environment in which NEDs can flourish.

Every board needs to ensure its skills are aligned with its strategy; for example, it should consider whether there are digital experts around the table if the intention is to invest hugely in digital growth. And no organisation should contemplate change management without experts, particularly if it intends to hold expenditure on consultants in check.

A board is not genuinely diverse if a mix of people has been appointed purely to meet targets. Diversity without inclusivity is a recipe for failure for the appointees, who will not flourish, and a wasted opportunity for the board and the organisation, which will not get the best out of its non-execs.

There are many ways in which people can be made to feel excluded. The MindGym consultancy cites the example of a board meeting that always starts with a pre-meeting discussion about the previous weekend's rugby, which inadvertently leaves out one director who doesn't watch the sport. The growing camaraderie between the rugby fans makes it harder for the other member to gain confidence at the boardroom table.

When people representing diverse groups or viewpoints are appointed to boards, at least two should be brought in at the same time, so they don't feel isolated because of their different approach or perspective. This helps with confidence, inclusivity and the value of the contributions. Longer serving NEDs should be appointed as mentors.

The appointment committee also bears a considerable responsibility for ensuring diversity isn't a shallow operation. It should specify criteria to search agents that tap into a wider pool. And it should watch the language used when recruiting. Avoiding, for example, terms like 'gravitas' is likely to encourage applications from people with more socially diverse, less privileged cultural backgrounds.

Making governance good

Good governance is about a structure that supports good relationships, gives a framework for sound advice and ensures sensible lines of assurance. It is also about good relationships around the board table and between the executive and the board. This applies to all well-run organisations.

Public sector organisations can be hierarchical, and leave the board out of the loop as it is perceived as 'other'. There is little point in inviting a good skill mix onto a board if this isn't exploited or if the executive hides issues.

Remembering that quiet, thoughtful people can be intimidated by loud, boorish types, that professionally qualified people might seem over-powering and that hierarchies can create factions, a good chair will seek to foster the right relationships. First, this will be among the NEDs themselves by ensuring that they are all given the time and space to make a real contribution. Then, NEDs can be sent 'into the field' for some productive interaction with the executive; they do not become operational but can offer helpful criticism or expert experience.

This relationship between board and executives should make the latter eager to bring the NEDs into the operation to give them a better insight into the effects of strategy and policy on day-to-day activities. This will benefit the NEDs and help their judgment when the policy or strategy is being reviewed. It also means executives should feel sufficiently confident in their relationship with the board and not feel intimidated. This, in turn, will ensure they do not conceal problems, but reveal them in good time to enable the board to assist and support.

Governance ultimately is about systems and structures that underpin and facilitate the right relationships. Each executive should understand what has been delegated to them and from which individual or board committee, and therefore to whom they owe a duty of periodic report. This is as relevant for the CEO who gets her delegation directly from the board as it is for those whose responsibilities are delegated from the CEO or another senior manager. It should be a chain of cooperation, mutual support and assurance.

No CEO or chair should be in the position of Tony Hayward, CEO of BP at the time of the Deepwater Horizon rig disaster in the Gulf of Mexico. He appeared to have been left talking to the world's press with little to say. Similarly, Sepp Blatter seemed to consider that a lack of knowledge was a defence to challenges about what was wrong at FIFA.

A chair or CEO who hears nothing should assume all is not well. A lack of information is a likely sign that the governance structure is not fit for purpose. The board and the audit committee should demand to know about the assurance process and how clearly senior management understand it. In other words, is there clarity about who should be reporting up the line? And who should be receiving assurances?

 'A board is not genuinely diverse if a mix of people has been appointed purely to meet targets. Diversity without inclusivity is a recipe for failure for the appointees, who will not flourish, and a wasted opportunity for the board and the organisation'

A common criticism of the public sector is that underperformers are not held accountable and that performance management is not sufficiently effective. However, if NEDs' oversight function is properly described for the audit committee and for the committees that oversee risk management, it will be clear whether:

- The board is setting the right standards and metrics;
- The board is keen to monitor performance against these;
- The board is receiving periodic reports and benchmarks measured against similar organisations, so management does not become introspective. Again, this is not easy for public sector organisations.

The board should also ensure that standards and metrics are translated into operational imperatives and that everyone understands their role in strategy delivery – and how their own performance matters. Performance management involves helping everyone realise their potential as much as it means spotting where performance falls short.

Know when it's time to say goodbye

A final point. It is worth noting that the chair of the Cooperative Group, the chair of FIFA and the chair of Kids Company had all served unusually long terms before the scandals surrounding those organisations broke.

By the same token, NEDs and non-executive chairs should be encouraged, through periodic board reviews, to ensure there are defined periods of service and that members remain on the board only for so long as there is no danger of their decisions becoming self-serving – and while they continue to add value. ●

In the public domain

The role of non-executive directors on government boards differs significantly from that of their private sector counterparts, but they provide a useful challenge


 ESSAY


DANIEL THORNTON

THERE IS A LONG tradition of bringing business people into government, based on the belief that the private sector has a better record on implementation than the public sector.

Government departments have had non-executive directors (NEDs), many from the business world, since the Thatcher era, with their role first being publicly codified in 2005.

The coalition government raised their profile. The then Cabinet Office minister Francis Maude argued that NEDs would “galvanise departmental boards as forums where political and official leadership is brought together to drive up performance”.

The status of boards was also enhanced, with secretaries of state replacing permanent secretaries as chairs, and the lead NED acting as deputy board chair. The prime minister appointed a senior business figure, Lord Browne of Madingley, as lead NED for the government as a whole to oversee the system.

A greater emphasis was placed on NEDs having commercial experience, reflecting the government’s desire to learn from the private sector and its ambition to contract out more public services. As prime minister David Cameron put it more recently, the idea is not that “we should run government exactly like a business” but that government should benefit from business people’s “insights”.

How transformative?

Maude very much focused on the idea that boards could transform the way departments were run. However, boards in government departments are very different from those in the private sector. In private limited companies, boards govern companies on behalf of shareholders, and have statutory duties.

The board has to have a majority of independent non-executives who meet specific requirements, such as not having been an employee of the company for the last five years. The statutory role of private sector NEDs is to “constructively challenge and help develop proposals on strategy”. In practice, they also act as a check on directors who are company employees and whose interests may diverge from those of shareholders.

In contrast, government department boards are not established in law but by administrative documents – the ministerial code (which is issued by the prime minister) and Cabinet Office and Treasury guidance. A future government could easily change the role of boards and NEDs.

Under the ministerial code, a board’s remit is “performance and delivery, and to provide the strategic leadership of the department”. But it is the secretary of state who is accountable to parliament for the department’s actions and performance, and the permanent secretary who is responsible for the day-to-day running of the department and is the accounting officer for the budget. So, while departmental boards include the leadership, they do not themselves lead the department.

This makes the expression “strategic leadership” misleading. It would be clearer to describe boards as being advisory to the leadership of departments. This is how the



government's current lead NED, Sir Ian Cheshire, has described them – but the guidance has not caught up with this.

Another important difference between departmental and private sector NEDs is the appointment process. In the private sector, candidate directors are recommended to the board by a company's appointments committee, which is controlled by independent NEDs. In departments, NEDs are recommended for appointment by a panel that includes the lead NED, with decisions made by the relevant secretary of state. The government lead NED is appointed by the prime minister.

In general, this process has led to the appointment across departments of around 70 NEDs who have demonstrable senior commercial, audit and other experience. These appointments have not generally been controversial. The main exception came in 2010 when Michael Gove, as secretary of state for education, appointed two businessmen who were Conservative Party donors and were aligned with Gove's ambitions in relation to free schools.

The accusation was that they were appointed for these reasons rather than because of their implementation expertise. One – John Nash – went on to be appointed a life peer and a minister in the department; the other, Sir Theodore Agnew, moved with Gove in 2015 to become a NED at the Ministry of Justice.

These controversies serve to emphasise that secretaries of state can appoint their own people if they wish, but most have not done so. It is notable that Gove's later appointments as Ministry of Justice NEDs followed the more usual pattern – which may of course have been the result of discussions between Gove and Cheshire.

So, given these significant differences between private sector and departmental NEDs, what role do they play?

Information deficit

There is little information about NEDs' role in the public domain. Where information is made public, some of it adds little to the sum of human knowledge. For example, the lead NED in each department writes a section of the departmental annual report. These usually begin by noting that the year has been "busy" for the department (sometimes "very busy"). In most cases, the main message is that all is well. The annual reports of the Department for Business, Innovation and Skills and the Department of Energy and Climate Change provide notable examples of these sort of reports; those of the Treasury and the Department for Environment, Food and Rural Affairs are better. But overall, there seems to be little point in NEDs having their own section if it is used to repeat messages found elsewhere in the annual report.

The government lead NED's annual report provides information about boards in different departments. In the Department of Health, and the ministries of Defence and Justice, they met almost monthly in the past year. In the Treasury, the board did not meet (the 2014/15 annual report notes that this was because of pressure on senior ministers' time – but the lead NED should deputise in these cases) and, indeed, has met very few times since 2010. It is hard to argue that the Treasury is an insignificant department without the need for challenge by experienced outsiders. The figures about how often boards meet reflect the fact that different secretaries of state use their boards in very different ways – and some of them do not use them at all.

There are two issues that stand out about board papers (which may be circulated monthly even when boards do not meet). First, there is a tendency for them to be written to reassure, rather than to expose the real issues that need discussion. While this is a tendency in any organisation, it is more pronounced in departments, because they have a range of objectives and measuring progress is challenging. This relates to the second issue with board papers, which is the lack of high-quality management information, and this has been a focus of NEDs' work.

Even where the main board plays a small role, board committees can be important. The Treasury's audit and risk committee is chaired by a NED and the Treasury's permanent secretary has highlighted the role of NEDs in addressing risk. Most of this work does not make its way into the public domain. Cheshire identified risk management as a "cottage industry" in departments and sees this as one of his priorities as lead government NED.

Discussions with NEDs reveal two key roles that they play in departments, and neither of them relate to their membership of boards, as boards do not play a significant role in most departments. The first is advising on implementation. This might be provided through programme boards, informal discussions or specific reviews. One notable example of this last category is the NED-led inquiry into the lessons from the ►

 'The lead NED in each department writes a section of the departmental annual report. These usually begin by noting that the year has been "busy" for the department'

◀ InterCity West Coast competition, discussed elsewhere in these essays.

It was described by the transport secretary as “independent”, which is a rather strong term for an inquiry led by someone (Sam Laidlaw) who was appointed to his post by the secretary of state. Nonetheless, the inquiry took place quickly (initial findings in two weeks, full report in two months) and was deemed useful in addressing the issues thrown up by the failure of the West Coast competition. Having someone with substantial outside experience and reputation who already understood the department must have helped.

More generally, the government tries to do too much to unrealistic timetables. Whitehall’s non-executive directors provide some challenge to this, for example during recent discussions over the development of single departmental plans.

Their second key role is in supporting the performance management of permanent secretaries. Cheshire noted that permanent secretaries were initially “sceptical in the Whitehall sense” – ie hostile. However, they have come to welcome NEDs’ involvement. Because the cabinet secretary is responsible for 30 reports and a range of other tasks, he has little time to provide management oversight of the permanent secretaries, and secretaries of state do not manage permanent secretaries. Input from outsiders who have the chance to understand a department’s challenges and often have experience of leading large organisations has therefore proved useful.

Behind NEDs’ feedback, which is usually supportive and developmental, lies a serious power. If they “judge that the permanent secretary is an obstacle to effective delivery, they will be able to recommend to the prime minister, secretary of state and head of the home civil service that the permanent secretary should be removed from his or her post”.

There is no information in the public domain as to whether this process has been activated. What has happened since spring 2015 is that each department’s lead NED provides Cheshire with a performance report on the permanent secretary, which Cheshire uses as part of his recommendations on annual pay awards. The role of NEDs in performance management must mean that their advice is more likely to be taken seriously by permanent secretaries.

Overall, most of what NEDs do is not systematically put in the public domain, so it is therefore difficult to systematically assess their impact; the information that is publicly available is somewhat obscured by confusing and bland language.

However, from conversations with NEDs, senior civil servants and ministers, it is clear that – while it is sometimes a struggle for NEDs to challenge unrealistic plans – they are in general performing a useful role. ●

 ‘The role of NEDs
 in performance
 management must mean
 that their advice is more
 likely to be taken seriously
 by permanent secretaries’

Getting fit for purpose

Non-executive directors are on the front line of defending financial probity and high public standards. They need a very special skill-set to do the job well



ZOE GRUHN

THE PUBLIC'S DEMAND for greater transparency and accountability has put the spotlight on public sector boards and their non-executive directors (NEDs). There is a widespread desire to ensure value for money at a time of austerity. Meanwhile, media pressures on public bodies have been fuelled by scandals and failures in local authorities, hospital trusts, schools and police authorities. Similar issues have occurred elsewhere, for example in the charity sector.

This raises questions about accountability and control mechanisms in public bodies. While there are many cases of fraud and failure in private sector companies, a higher standard is expected of public sector organisations. Increased public awareness and demands for scrutiny have been stimulated by the Freedom of Information Act, the ready availability of information on the internet and from public revelations of failure by the Public Accounts Committee, for example.

In this context, it is reasonable for citizens to assume that public sector NEDs are monitoring their organisations' activities and policies. Boards of public bodies, just like those of private sector companies, are expected to be not only an important line of defence against malpractice and inefficiency, but also to raise standards by promoting the transformational changes demanded of public services. Here we examine what these leadership and corporate governance challenges mean for the competencies, skills and behaviours of NEDs.

The whole board of any public body is expected to play a key leadership role in promoting a collective vision for the organisation, and holding the management to account for all aspects of performance. Executive and non-executive members need to identify sensitive and important issues, raise them at board meetings and make critical strategic decisions.

Although there are differences, public and private sector NEDs have strong similarities. Both use subcommittees to oversee areas such as remuneration and internal audit, areas where NEDs can make a big contribution. Both value 'independent', impartial, outside directors, who bring a candid view of the issues faced by the board. Both public and private organisations look to recruit NEDs with specific knowledge and interests relevant to the organisation and its sector.

In an era when public service users are encouraged to see themselves as 'customers', and have a more transactional relationship with the service provider, NEDs must also sustain complex relationships that go beyond those with their fellow board members. These include the wider public, service users – including special interest groups – taxpayers, politicians, the media, civil servants, suppliers, other public bodies, trade unions, pressure groups, professional bodies and, sometimes, international organisations.

NEDs may well be asked by the chair to take a leadership role on topics where they have specialist expertise, or to involve themselves with some aspect of a change programme, such as a new IT system or public service – usually acting in support of executive colleagues. ▶

‘The fiduciary role of NEDs requires an understanding of accounting practices, and a capacity to understand and question performance data’

These roles are conditioned by contextual factors and the board structure. But some common attributes, such as financial competencies, are needed by all boards. The fiduciary role of NEDs requires an understanding of accounting practices, and a capacity to understand and question performance data. This means working with finance directors and audit committees to examine the accuracy of the systems, and the utility of the data provided, as measures of overall performance.

Other requirements may include: estate management competencies related to buying, selling and renting or renovating buildings and land; change management knowledge and experience; risk management competencies; strategic planning ability; and some familiarity with the laws most associated with their organisation’s remit.

The skills needed reflect the complexity of the organisation. A successful public sector NED understands the context within which board decisions are taken, and which aspects should take priority. Board members need to understand how much weight to give to any evidence that is presented – something that could almost be described as a ‘political skill’ (with a small ‘p’).

Skill requirements between newly formed boards and those that are well established also differ; this includes where new formal practices are being brought in or existing ones monitored. While the fiduciary responsibilities of boards are at the heart of the knowledge and skill-sets required, NEDs should also bring independent judgment. There are generic skills all boards need, such as the ability to monitor the activities of senior executives, and the performance of the organisation as a whole.

A forensic style of enquiry is another important attribute, especially when trying to establish a causal chain of events. This necessitates excellent questioning techniques such as: open-type questions to elicit data; closed questions to establish a fact; and future-oriented questions to understand the assumptions made. Questioning may reveal patterns of actions, but the NED should consider the evidence from a variety of perspectives before making a judgement.

There are three general sets of aptitudes that an effective public sector NED requires. First, they need to display integrity in all their actions. This requires independence of mind and being politically aware, diplomatic and careful when making statements. They must stand up for the highest standards in the way the organisation acts.

This means encouraging a climate of openness, forestalling possible crises through careful risk assessments, and ensuring good upward communication systems are in place. NEDs should insist that any issues raised by whistleblowers are carefully considered, and there are no negative consequences for the individual concerned (as per the Public Interest Disclosure Act 1998).

Second, they must have the capacity for critical thinking so they are able to explore and interpret data. Listening skills, persuasiveness and the ability to use and interpret non-verbal communications – all these and other interpersonal skills are essential to the deployment of the competencies required for the job.

Third, they need the capacity to innovate. This means understanding how to introduce new ideas, work with the chair in gaining a consensus, and deal with conflict and opposition constructively.

Here is where fostering close discussions with relevant networks of stakeholders will pay off. A sense of responsibility to the local community – and the involvement of user groups in the organisation as ‘critical friends’ – helps to ensure managers and staff are fully aware of how to deal with potential service delivery failures, and what can be done to avoid them.

Generating creative ideas and promoting transformational change for the better is where NEDs can bring in new thinking. Being positive rather than just critical friends can make a real difference to the strategic direction of travel and the standards set throughout the organisation.

All these skills and competencies are, in their different ways, critical to the success of a public sector NED when analysing what to do, and how to persuade and support the entire board in relation to any new ideas, or in their critique of existing practice, within the specific context faced by their organisation.

Operating at this level will assist with the all-important task of setting and maintaining high ethical standards, and ensuring that the organisation is able to serve the public and act as a positive force with all of its various stakeholders. ●

And in conclusion ...

A number of action points emerge from exploring the role of public sector non-executives. The challenge will be making them happen



ANN REEDER

THE PUBLIC SECTOR landscape is dramatically changing, and non-executives have a critical role to play within this shifting terrain. These were the two key conclusions arrived at by authors of this *PF Perspectives* essay collection when they gathered for a round-table debate earlier this year.

Meeting on 26 January at London's Somerset House, the essayists explored the challenges for non-execs in public services – their overall purpose, key differences across sectors, the barriers they face and how to make their role more effective.

Throughout the essays, different authors point to the rapid change in structures and governance of publicly funded services – and the crucial role that non-executives can play in increasing transparency and accountability, improving decision-making, securing better outcomes and protecting the public purse.

There is, though, no one overall model for public sector non-execs, nor a single set of roles. Instead, there is a range of approaches that reflect the sector, context, priorities and resources. Whether within governmental department boards, multi-academy trusts, clinical commissioning groups, NHS trusts or charitable foundations, non-executives bring added value through being 'something the executive isn't'.

Non-execs form part of the collective strategic leadership; advising and challenging decision-makers; setting policy and protecting values; interrogating accounting practices and performance management; assessing risk and audit; managing estates; leading change and innovation; mentoring, recruiting and managing talent; providing accountability – the list goes on.

In national government, that leadership is tripartite, comprising the political leadership (the secretary of state and ministers), senior civil servants and appointed non-executive directors. Charities may have a more hybrid model. Distinctively, the non-executive councillor or backbencher in local government or on a police and crime panel fulfils a scrutiny function as the critical friend of the executive, rather than participating in decision making. They are essentially scrutineers rather than non-execs in the wider sense.

Ranging across diverse settings, the *Perspectives* essayists explored the value, common challenges and requirements for non-executives in publicly funded sectors. Some important themes emerged.

Value-added leadership

Effective leadership and good governance can be enhanced by non-execs – whether appointed or elected – providing independent insight from outside the organisation. Government departments, academy boards, local government and charities value the commercial acumen that NEDs with business backgrounds bring to an organisation, strengthening commissioning, performance management or audit.

Their technical expertise helps to steer and monitor strategies, push digital transformation, drive complex projects and build support for innovation. Non-execs, particularly in the charity sector, identify strongly with the concept of 'custodian' of an organisation's ethos or the public purse. ▶

‘Non-execs can help with ruthless prioritisation and advocacy of the best solutions. Inquisitive and questioning, they are most effective when they do not provide a rubber stamp’

Scrutiny is the added value for sound decision-making, providing the impartial external challenge that executives often require. Non-execs can help with ruthless prioritisation and advocacy of the best solutions. Inquisitive and questioning, they are most effective when they do not provide a rubber stamp.

Where failings in public sector delivery or governance have been exposed – a powerful chair or chief exec who appears above challenge; a failure to listen to the experience of patients and families; neglect of serious allegations; wilful incompetence – the case is strengthened for involving non-execs with professional knowledge, relevant experience, community connections, a strong sense of mission and an ability to ask difficult questions and raise sensitive issues.

Following the Francis inquiry into the failings at Mid Staffordshire NHS Foundation Trust, a legal ‘duty of candour’ has been established. This places a requirement on health and care providers to be open with patients when things go wrong. In theory, this should enhance the ability of non-execs to promote transparency, especially given the shifting relationships between citizen and state.

There are, however, issues of legitimacy and legal powers. Questions were raised at the round-table about lines of accountability, clarity of roles and support for the non-exec.

Some NEDs operate in highly complex organisations. Not all feel they know enough to challenge a powerful executive or strong personality. Poor information is a common problem, with inadequate or indigestible papers and data and limited access to key personnel. Induction is not always provided to equip non-execs for their role.

Some non-execs are regularly involved in board meetings or sub-committees; others are on boards that rarely meet. Some feel their hands are tied, while others perceive a lack of power or feel the organisation to be so complex as to render them helpless.

A dilemma was presented about the public face of an organisation. A non-executive chair may not be engaged in day-to-day management but, in a time of crisis, might be expected to face the press and the public. It is clear that accountabilities vary between sectors, and there is no single approach to sharing responsibility and risk between the executive and non-executive parts of an organisation’s leadership.

Another common challenge relates to human resource issues. Some non-execs have fixed terms and a succession strategy that allows for continuity. Others have security in post, which risks the development of built-in loyalty to an organisation and absorption of the non-exec into its culture, reducing the effectiveness of independent challenge.

Remuneration also varies – along with the amount of training and development on offer. Critically, non-execs are often part time and unpaid. They may lack capacity to make the full contribution they seek or the organisation requires. Recruitment practices or the need for people to have time to give on a voluntary basis can restrict the pool of non-execs.

Participants reflected that, too often, non-executives in their sector tended to be white, male and retired. Yet one of the strengths of non-exec input should be their direct experience or professional insights to help the organisation’s leadership make better decisions and realise effective outcomes.

Making it happen

Given the significant contribution of non-execs to public services, government must reassess the basis on which they are engaged and introduce good governance tests across the sector. A number of action points emerged.

First, it is essential to map non-executives across the public sector, evaluate their skill sets and research their diverse roles. This will enable the government and other stakeholders to better understand the contribution they make within an austere and changing public service landscape.

Second, recruitment techniques must develop so that non-execs better reflect the public and communities that they serve and ensure that the right people are attracted and retained. This is likely to require appropriate remuneration and mandatory support.

Third, with change a constant in the sector, it is essential to facilitate networking, and provide learning and development opportunities for non-execs. Indeed, the schools chief inspector, Sir Michael Wilshaw, has already suggested mandatory training for members of academy boards and multi-academy trusts.

Finally, it is vital to demonstrate to executives the value of non-executives in strengthening strategic decision-making, good governance, service improvement, quality assurance, performance monitoring, risk management and user involvement.

This buy-in from public sector leaders is essential to ensure the full potential and benefit of non-executives is realised – with lasting benefits for public services and the public purse. ●

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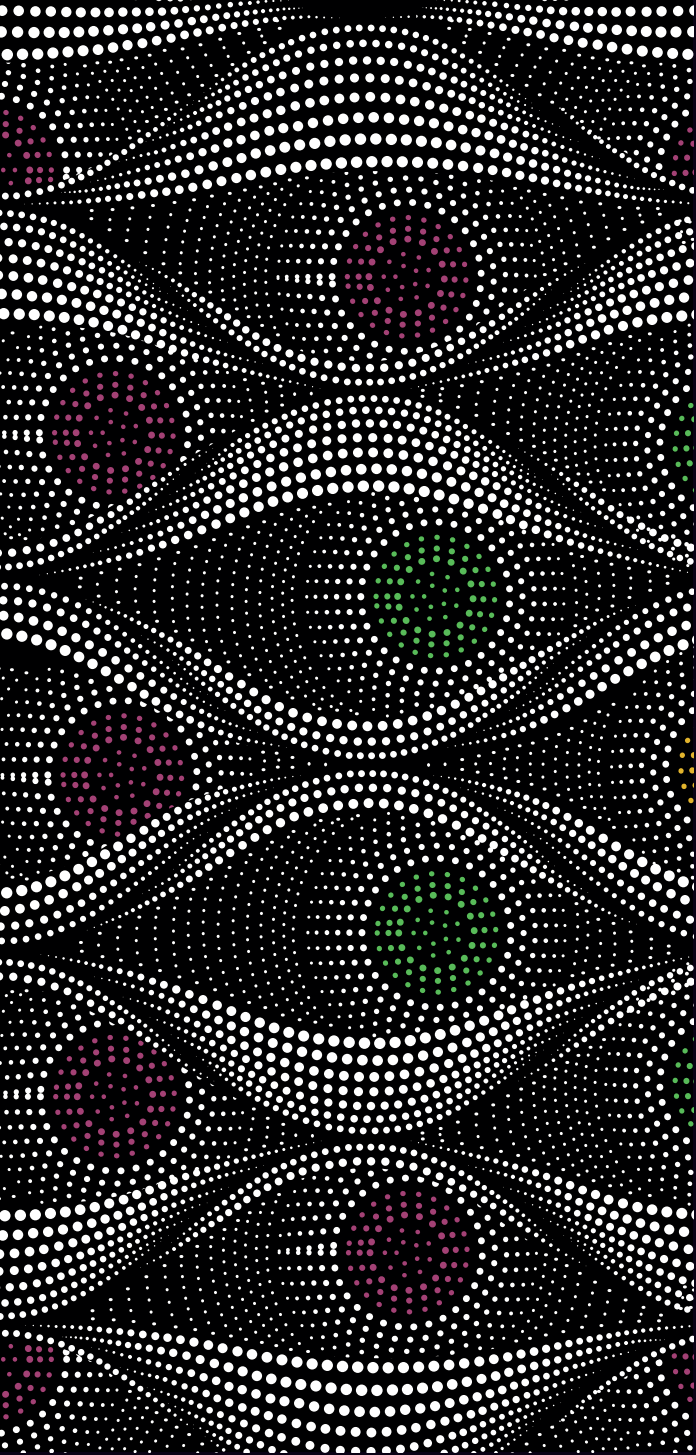
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Holding public services to account

This is the third in a series of *PF Perspectives* produced by CIPFA and *Public Finance*. They are designed to stimulate discussion and debate on key public finance and policy issues. These essays, by leading public sector practitioners and governance experts, focus on the critical role that non-executives play within government, on public service boards and across the sector at larger

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