

Governance in Group Training Organisations

Beyond Standards Limited and GTA England



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1 Summary

1.1 This review draws on research carried out among Group Training Associations (GTAs) in the spring and summer of 2011. It reaches conclusions against a background of the models of governance in the further education (FE) sector which were developed for LSIS and the Association of Colleges (AoC) in 2009. Much has happened since then:

- in terms of a new government which is perforce cutting down sharply on expenditure, affecting the viability of publicly-subsidised learning providers, while at the same time offering opportunities for expansion and new initiatives for those able to grasp them;
- in terms of mature reflection on the crash of 2008 and its roots in weak corporate governance, notably by Sir David Walker;
- and in terms of revised codes and conceptions of good practice which have superseded those current when the LSIS review of 2009 was written, most significantly for the purposes of this study, those published by the Financial Reporting Council (FRC), the Charity Commission (CC) and the Institute of Directors (IoD), all in 2010.

1.2 The review sets out briefly the background of GTAs as employer co-operatives which established training centres to address needs for new skilled manpower that varied from year to year, and to remedy a lack of specialist in-house knowledge of training techniques and of capacity to release senior staff to act as trainers. Of specific importance to the research is the fact that GTAs are hybrids:

- Companies limited by guarantee
- Registered charities
- Membership organisations
- Contributors to the wider public service, supported by public funds.

GTAs are employer-led and, to the extent possible for charities, 'employer-owned'.

Nevertheless, they must adhere in their governance to several differing practical and ethical codes, the variations among which set them dilemmas and arguably have affected their durability.

1.3 The research has painted a picture of GTA governance which, in some respects and in some GTAs, has fallen behind the operational and political world that the organisations and their managers confront. This may not be surprising, given the turbulence of the further

education sector, nor perhaps is it unusual. GTA boards adhere to their legal obligations and there is much evidence of passionate interest over long periods in the wellbeing of the organisation among trustee/directors and the member employers from which they are drawn. However, in terms of current conceptions of best practice, the survey suggested that the following shortcomings might be common:

- Recruitment of directors through personal recommendation, resulting in their profiles of knowledge, skills and background remaining substantially unchanging over time;
- Many examples of a failure to match the profile of directors to the current mix of programmes and learners in the GTA;
- Uneven approaches to director induction and subsequent training, arguably leaving many of them over-dependent on an understanding of governance wholly based on their business lives;
- Concerns in board meetings heavily weighted towards matters of detail rather than strategic direction, which is often regarded instead as the province of the executive;
- An almost-universal absence of formal appraisal among boards of their own performance overall, of individual directors and the CEO by the chair, or of chairs by non-executive directors;
- Little evident regard paid to succession among either non-executive or executive directors, with few GTAs using formal rules and structures to secure regular turnover or to recruit new capabilities against a pre-determined job specification drawn up to match external circumstances;
- Some weakness of procedure, probably linked to the rarity of formal training for company secretaries in GTAs;
- Few indications of formal delegation from the board to the executive, with some evidence of unhelpful overlap and confusion between strategic and senior management roles;
- Uneven arrangements for communication between GTA boards, their stakeholders and staff of the organisation, with some boards having very little obvious connection with the body they head.

1.4 This review is not the central product of the research. With change on the ground the main desired outcome, the project has produced or will produce the following:

- An analysis of 25 questionnaires and 6 on-site visits to GTAs, conducted early in 2011
- A Consultation Conference drawing together non-executive and executive directors of GTAs and other interested parties in July 2011, where the research findings were compared with the authoritative codes of good practice in governance and new guidelines for GTAs were developed
- A new section on governance, which was added to GTA England's *GTA Framework for Quality Assurance* in August 2011
- A programme of support and mentoring for non-executive directors of GTAs and new CEOs, organised by a GTA as the agent of GTA England and LSIS from autumn 2011.

The purpose of this review, therefore, is not to duplicate the research findings or the new advice to GTAs on governance, nor to anticipate how effective this might prove to be in enhancing practice, but to reflect on any broader implications of this work for other providers in the FE sector.

1.5 This review takes the position that the recent codes of good practice represent a step forward because:

- They all rely on a common basic principal; 'Comply or Explain'
- They are all predicated on the normal UK pattern of 'single tier' governance where non-executive and executive directors work together
- They propose largely common purposes for boards
- They emphasise respect for the spirit of codes as well as the letter, for the development of trust, and for continuous responsiveness to change

- They highlight the distinctiveness of the chair's role (to run the board) and that of the CEO (to run the business)
- They set out in largely similar terms the disciplines which make boards effective.

1.6 The review suggest that this commonality among the authoritative prescriptions for good governance makes it likely that the description in the LSIS 2009 study, of a FE sector with little shared understanding of the disciplines involved, may in time prove overly pessimistic. It is proposed that the basis on which the new advice on governance for GTAs has been built, the FRC code, offers a practical, pragmatic and unambiguous foundation for governance in the sector as a whole, once it has been shorn of its specific references to governance in public companies. Whilst the ethical and moral prescriptions which are of importance in many other codes have their place in assuring good governance, it is suggested that unless they are seen as subsidiary to a functional code such as that of the FRC, they can cause organisations under stress to be distracted from their central duty to assure long-term viability. There may be a case, it is proposed, for simplification of the focus and the requirements of governance as well as for preparing volunteer members of boards for an increasingly complex task.

2 The Genesis of Group Training Associations (GTAs)

2.1 GTAs were developed in response to the Industrial Training Act (1964). Legislation established industry training boards supported by a levy raised from employers. The levy amounted to 0.9 per cent of each employer's gross payroll, three-quarters of which could be reclaimed by those that trained. The response of many employers, large or small but equally lacking in training skills and senior operative staff who readily could be released to become trainers, was to set up training co-operatives. These group training associations were both registered charities and companies limited by guarantee, their trustee/directors being drawn from member companies. Most GTAs built a training centre equipped to industry standards, which provided off-the-job training for a substantial initial period early in an apprenticeship, ensuring that able young people starting work in potentially hazardous occupations could learn basic manual skills, the disciplines of work and safe working practices before entering the workplace. Having started work in earnest, on-the-job training continued to be supervised and assessed by specialist staff from the GTA.

2.2 The largest industry training board (EITB, today's SEMTA) established 40 GTAs with a target of 25,000 successfully completed apprenticeships each year. Other active training boards were founded by the construction and engineering construction industries. Altogether, some 150 GTAs were set up, many of which survived withdrawal from the levy payment by most industries and the loss of political enthusiasm for these early public/private partnerships. By the early 2000s, there were said to be around 120 GTAs in the UK, concentrating on engineering, engineering-construction and construction, where a voluntary levy continued to be paid. A report published by the Department for Education and Skills (DfES, today's DfE and BIS) concluded: **'Without GTAs it would appear that some employers would be forced to train fewer people, to a lower standard, through poorer quality providers or not train at all'.¹**

2.3 The successes of GTAs were not confined to providing volume in training. An internal study of quality in GTAs carried out by the Adult Learning Inspectorate in 2002, found that three-quarters of them achieved satisfactory or better grades for leadership and management and 70 per cent for quality assurance, compared with the averages across all providers of 47 per cent and 36 per cent, respectively. In engineering, the most taxing of technical apprenticeships, 83 per cent of GTAs provided training which was satisfactory or better, compared with an average across the FE sector of 66 per cent.

¹ *The Role and Impact of Group Training Associations*,
Burge, Vasey, McQuade and Hardcastle. DfES/HMSO, 2002

2.4 Nevertheless, GTAs were falling in number. A study² in 2009 found only around 40 GTAs in England which conformed to the original pattern. They had succumbed to a range of events:

- The shift in the British economy away from manufacturing in favour of services
- A corresponding diminution of support from government to maintain the original impetus and funding for up-to-date training facilities in costly technical trades
- Mergers among GTAs and takeovers of GTAs by colleges concerned to enhance 'employer engagement' by gaining access to a GTA's employer connections without its employer-led structure.

Since the nadir in their fortunes sometime in the mid-2000s however, many of the remaining GTAs have combined in a new representative body, GTA England, in order to raise the consistency of high quality, to reduce costs through active collaboration, and to develop new GTAs. The government has responded generously, stating:³

'We are particularly keen to see the current GTA network grow...'

2.5 The GTAs have seen clearly that a key to long-term prosperity, to well co-ordinated action to grow the network and to pursue the government's ambitious plans to rebalance the economy towards manufacturing and train a much larger cadre of accomplished technicians, is enhanced governance. Whilst the employer-led model, and to a large extent employer membership and trusteeship, are fundamental to GTAs, their operating environment has changed more radically than has their governance. GTAs, like some other providers in the FE sector, are hybrid bodies in structural terms. They must conform to legislation regulating registered charities, trusteeship, companies limited by guarantee and organisations in the wider public service delivering training with aid from public funds. They must retain the intimate sense of 'employer ownership' which stems from membership. And they must seek to conform to the various dynamic codes of good practice in governance set out by, for example, the Financial Reporting Council (FRC), the Institute of Directors (IoD) and the Charity Commission (CC).

2.6 Whilst these codes have much in common, they are not identical. GTA boards must often choose which advice to follow within the common overall principle in corporate governance 'Comply or Explain'. They are conscious of the FRC's advice that 'To achieve good governance requires continuing and high quality effort'. It was with a view to achieving creative and adaptable governance, as well as an adjustment to the full range of current circumstances, that GTA England and the GTAs developed an enhancement project with the support of the Learning & Skills Improvement Service (LSIS).

3 Research

3.1 The LSIS study of 2009⁴ proposes a very useful general model of governance. Its thrust is that, with differing emphases according to their structure, organisations providing public further education seek to balance three things in their governance:

- Maximum success
- Accountability and compliance
- Representation and democracy.

The authors conclude that the first of these predominates in the 'private sector and in autonomous institutions such as universities and many charities'. They continue: 'Board performance is judged by the extent to which it adds value and maximises institutional performance and success. Accordingly, the approach is most at home in a competitive environment with strong market features'.

² *Developing the Group Training Associations*, Beyond Standards Ltd for LSC/ALP, 2009

³ *Government Response to the Wolf Review of Vocational Education*, DfE/BIS, TSO 2011

⁴ *A Review of Governance and Strategic Leadership in English Further Education*, Schofield, Matthews and Shaw for LSIS/Association of Colleges, 2009

3.2 Whilst few would argue with the nub of this analysis, its last sentence perhaps over-emphasises the differences between colleges and other, arguably more 'autonomous' providers. In fact, all operate in a competitive environment, even though the eagerly sought-after 'level playing field' probably still has some way to go before its practical achievement. The 'market features' referred to in the LSIS study are certainly present for all providers and are becoming stronger under the aegis of the Skills Funding Agency (SFA).

3.3 It was with the LSIS model of governance in mind, as well as the codes set out by the FRC and the Charity Commission and the predominant thinkers on the subject,⁵ that research into the governance of GTAs was framed. It consisted of a questionnaire covering the key features of governance, which was sent to the 26 members of GTA England and answered by 25 of them, supplemented by in-depth studies of six GTAs carried out by consultants. These comprised on-site visits, usually of two days each, with free access to all relevant documentation of the structure and activities of boards, and interviews with non-executive and executive directors, GTA staff and often learners. On-site visits were not organised on a random basis but were intended to sample the range of scale among GTAs (from about £1 million - £15 million annual turnover) and the complexities now appearing in some as, for example, they launch Trust Schools, UTCs or single-subject 'sub-GTAs' with national coverage. This was followed up with a Consultation Conference for CEOs and non-executive directors of GTAs as well as other organisations⁶ in the sector. At that conference, the findings of the earlier research were considered against the benchmarks of the main codes of good practice, and a variant was hammered out for use by GTAs. That specific code for GTAs is now part of the *GTA Framework for Quality Assurance*. It will be promulgated, with assistance from LSIS, throughout the GTA England network by training and mentoring for boards and new non-executive and executive directors, organised by a GTA chosen through a bidding process, and by the development of a 'talent pool' from which new GTA CEOs might be recruited.

3.4 This report to LSIS therefore represents an interim step on the path to optimum effectiveness in GTAs. However, it offers an opportunity to reflect on the findings of the research and the choices made about an optimum way forward, which may enrich the picture presented by the LSIS 2009 study and widen its relevance in the sector of today.

4 GTA Governance: The Status Quo

4.1 GTAs are notably 'business-like' in their industrial premises and plant; in the disciplines they require of learners (clocking-on, standard workwear, etc.); in the background and attitudes of staff; and in their sense of allegiance to member employers. One might therefore expect to find entrepreneurship, maximised financial margins and other features associated with the private sector, in ascendancy. That profile might be expected to be reflected in a primary adherence to the FRC code⁷ and its central statement:

'The purpose of corporate governance is to facilitate effective, entrepreneurial and prudent management that can deliver the long-term success of the company'.

This aim has much in common with the more detailed *Standards for the Board* set out by the IoD in 2006, defining the duties of the board to:

- Establish and maintain vision, mission and values
- Decide the strategy and the structure (of the organisation)
- Delegate authority to management and monitor and evaluate the implementation of policies, strategies and business plans

⁵ For example, *The Effective Board*, Bain and Barker, IoD/Kogan Page, 2010, the IoD *Standards for the Board*, 2006, and *Boards That Make A Difference*, Carver, Jossey-Bass, 2006

⁶ The wider access to this conference represented GTA England's role as a special interest group (SIG) of the Association of Employment and Learning Providers (AELP)

⁷ *The UK Corporate Governance Code*, Financial Reporting Council June 2010 and updated frequently to take account of changes in the corporate environment

- Communicate with senior management.

4.2 In fact, this strikingly high-level model of strategic leadership, which confers a substantial degree of operational freedom on the executive, has perhaps been compromised in GTAs by an overlay of caution stemming from other sources. Predominant among these – and possibly underestimated in the 2009 study as a power for prudence over entrepreneurship in charities – are charity law and the codes of practice laid down by the Charity Commission.⁸ Whilst they share the over-arching principle, ‘Comply or Explain’, with good company governance, the Charity Commission code, from its opening quotation from Mahatma Gandhi to its detailed prohibitions, tends to be more obviously constraining and ethically overt than that of the FRC. Its influence in GTAs appears to have been one of conservatism. Few have any significant borrowings. Environments are strikingly modest in comparison with today’s colleges and universities. Financial margins are typically of the order of 2-3 per cent of turnover in a good year, benefitting learners in costly, technical, disciplines but limiting severely the potential for long-term investment. Many chief executives are not members of the board (reflecting the Charity Commission’s general prohibition of paid trusteeship).

4.3 The FRC ideal of an equal partnership between executive and non-executive directors, and its essential cutting edge in the symbiotic relationship between the chair (who runs the board) and the CEO (who runs the business), is therefore seldom perfectly represented among GTAs. At worst, the moral imperatives of trusteeship can severely restrict the creative potential of management and create a distance between the board and those working to cope with difficult everyday circumstances in the FE sector.

4.4 More should be said here about the ‘single-tier’ model of governance predominant in the UK. It depends on a close partnership. On the one hand are non-executive directors whose practical role is to represent ‘owners’ (literally in the case of private or public companies, and in the sense of beneficiaries in the case of charities or public bodies); to support and guide senior managers; to challenge their proposals ensuring that they are sound; and to monitor the effectiveness of outcomes. On the other hand are the executive team whose role is to carry through the board’s strategic directions to success; to supervise all the day-to-day functions of running the organisation; and to bring to the board the information, propositions, and detailed plans necessary for it to do its job.

4.5 The potential for muddle and misunderstanding is obvious. Non-executive directors may become excessively closely involved in management, neglecting their essential role in strategic leadership and independent oversight accordingly. Managers, frustrated by what they (rightly or wrongly) see as interference by part-time non-executive directors, may starve the board of information, flood it with detailed trivia, or otherwise reduce its role to rubber-stamping decisions already taken by the executive. The seminal analysis made for LSIS in 2009 identified four categories of governance commonly found in the further education (FE) sector:

- A partnership approach
- A conflict approach
- An under-developed approach
- A managerial approach

Whilst only the first of these appears to offer a satisfying and effective mode of working, maximising potential and minimising the risks to both the organisation and members of the board and the executive, few experienced managers and board members (including those in GTAs) will be unfamiliar with the last three. As Carver observes ‘Few boards are as effective as the individuals who make them up’. Massive corporate failures (Enron, Lehman Brothers, Northern Rock, HBOS, etc.), echoed however faintly in the prevalence of enforced mergers and

⁸ See for example, *The Essential Trustee: What You Need To Know*, Charity Commission, 2010.

other difficulties in the FE sector, suggest that something comparable to the far-reaching Walker review and its expression in the 2010 version of the FRC code, may be needed.

4.6 More prevalent in mainland Europe and the USA is a 'two-tier' model of governance where the board and senior management are more widely separated. This approach is explored in depth and with sophistication by Carver, in particular, setting out detailed guidelines for both commercial and social enterprises. Carver envisages a non-executive board which restricts itself to defining what an organisation is *for*, its values and beliefs; the policies which executives should follow; and any means to achieve those ends which executives are forbidden to follow. As Carver notes, such a clarification and strict separation of powers and structures avoids a situation he describes as follows:

'Governance as widely practiced is a farrago of historical accidents and disjointed elements no doubt contributed by intelligent people. But having not arisen from a coherent sense of the whole, it is gravely flawed'.

However, it perhaps also avoids the creative synergy between the chair of a board and the CEO, in particular, and between a wise and widely experienced set of non-executive directors and the executive team, in general, which can be found in the best of the UK approach. It is that ideal which, arguably, is compromised by the conjunction of business and charitable codes in GTAs.

4.7 An additional set of controls is introduced into GTAs by the founding practice of employer membership. In an important sense, of course, this is fundamental to GTAs. Their successes in areas like apprenticeship, where many other providers have failed, are based on the fact that their work is genuinely employer-led and, to the degree that this is possible in a charity, employer-owned. GTA apprenticeships are invariably employed apprenticeships, with high success rates even in comparison with the former 'programme-led' model, and enviable rates of progression to secure long-term employment and promotion in good companies. However, again to cite the worst case which GTAs describe as fact or fear, board members of GTAs who are training managers of their companies (rather than senior directors) may well see their interests as being best served by keeping training fees low, to the potential detriment of the GTA's viability. GTA board membership may easily become the exclusive domain of managers in a small coterie of member companies, which pass the privilege down through a succession of essentially similar trustees, using a process based on personal knowledge and recommendation rather than more open and transparent procedures. Such an inward-looking profile for a board is unlikely to find creative planning for either non-executive or executive succession easy. It is some distance away from the vigorous, outward-looking board envisaged by the FRC, with its strong accountability to stakeholders (shareholders in the central FRC case of public companies), and which is echoed in a different form in Carver's model of 'two-tier' governance, separating the strategic non-executive board from freely-acting senior managers.

4.8 An important premise of the LSIS 2009 study, that governance in colleges, in particular, had been weakened by strong central regulation imposed by the former Learning & Skills Council (LSC) and the inspectorates, does not appear to have been a major factor in GTAs. While centralised structures have fallen out of political vogue and may progressively fall out of use, the disciplines of contracting and reporting (although onerous) appear to have been more congruent with the business expectations of GTA boards than with those associated with community responsibility and academic freedom that were espoused by college governors. Less bureaucracy, and a reduction in the costs associated with it, is welcomed by GTAs, but for largely pragmatic reasons rather than those of principle.

4.9 With these special factors in mind, the findings of the survey of GTA governance produced confirmation of what might have been expected to evolve over time, as much as revelation.

In general terms:

- Change is underway almost everywhere
- The membership model often falls out of favour as a GTA grows, in order to broaden board representation to align with a more complex business model which sometimes comprises different types of organisation (e.g. a Trust School, a UTC or a national single-subject 'sub-GTA') within the parent structure
- Few GTAs see their governance arrangements as satisfactory, even where they are amicable and productive
- There is little evidence of exemplary governance aligned in all respects with the authoritative codes of good practice
- Differences of scale and local circumstance are such that any single prescription for good practice needs to be treated with some caution.

4.10 The detailed findings can be summarised as follows:

- Nearly all GTAs seek to fulfil all the functions associated with their hybrid structures and breadth of accountabilities in a single board, (the exceptions being the larger and more complex GTAs mentioned above);
- Around three-quarters of all GTAs continue their adherence to the employer membership basis for board membership, the remainder increasing the diversity of skills and backgrounds among trustee/directors;
- Most GTA boards have 8-10 members, invariably recruited through personal recommendation by the chair or CEO rather than involving pre-determined person specifications, a Nominations (or Membership) Committee and an open process such as advertisement or independent headhunting;
- In only about one-third of GTAs is the CEO a trustee/director, although most attend board meetings, often alongside other members of the executive team;
- Directors of GTAs invariably may serve indefinitely, often through an unlimited succession of defined terms (which are usually of three-years) with phased re-elections at an annual general meeting (AGM);
- A majority of GTAs offer new trustee/directors a formal induction but only one-third routinely provide recurrent training;
- A minority of boards appraise their own overall performance annually and in almost none is formal appraisal of directors or the CEO by the chair normal practice;
- Attendance among trustee/directors is usually good but (perhaps because of the lack of formal appraisal of continued effectiveness) even where it falls well below stated expectations, they are rarely called upon to resign;
- There is wide variation in the frequency and duration of board meetings, with the average pattern being bi-monthly meetings of 2-3 hours each;
- Few GTAs conduct their meetings wholly formally, using standing orders of procedure, and most are without a company secretary with professional qualifications specific to the role;
- Most of the affairs of GTA boards are carried out in plenary session with little appetite for establishment of committees to deal with the detail of e.g. finance and human resources in Audit and Remuneration Committees;
- Boards appear to play a limited part in initiating strategic matters, with CEOs often taking the lead;
- About three-quarters of GTAs delegate powers formally to the executive, although the scope of delegation appears narrow, so that implied authority and trust are often relied upon;
- Only about half of all GTAs apparently take active steps to make the board's members and proceedings widely known within the organisation;

- About half of all GTAs report a concern to introduce diversity in terms of gender or ethnic heritage to their boards;
- There is wide variation in the closeness of the relationship between the chairs and the CEOs of GTAs and corresponding differences in the use of board members to champion progress in particularly challenging issues, for example.

4.11 To dwell on variations from codes of good practice is perhaps to under-value the fund of goodwill and business wisdom which trustee/directors of GTAs bring to the organisations they head. Nevertheless, it is difficult to avoid the conclusion that GTAs share many of the shortcomings of other voluntary boards in the FE sector, and that they fall somewhere between the two stools of the 'single-tier' and 'two-tier' governance structures. They often lack either the intimate connection between an equally able and committed chair and CEO, which is the ideal of the 'single-tier' model; or the formality of conduct, delegation and empowerment for the executive proposed for the 'two-tier' approach.

4.12 With the authoritative codes of practice in mind, therefore, one might summarise the strengths and weaknesses of GTA governance hitherto, as follows:

Strengths

- Strong connection with employers who are both members and customers of the GTA
- Guidance within the board on the relevance of training, in all respects, to the working environment
- Strong business disciplines in boards, assuring prudent financial management and cost control
- A powerful ethical sense arising from charitable trusteeship, which aligns closely with the professional code of responsibility in e.g. engineering
- A sense of separation from the public-sector world of education and training among board members, bringing a wider perspective to dealings with funding and regulatory bodies
- Long-term commitments among employers to board membership and training.

Weaknesses

- Relatively closed and narrow membership of GTA boards, sometimes failing to reflect the current breadth of curriculum as well as that of external stakeholders
- Deployment of relatively junior staff from employers as GTA board members, particularly as globalisation replaces owner-entrepreneurs in many parts of the country with managers of subsidiary companies
- Excessive concentration on the detail of disciplines with which board members are most familiar in full board meetings (finance, human resources, premises and equipment, etc.), at the expense of strategic debate and direction
- Conservatism based on the restrictions of charitable trusteeship; sometimes perceived rather than real
- A lack of clarity about which code of good practice is operative in a hybrid organisation
- A risk of excessive distance from the executive where charitable status apparently discourages the 'single tier' model of close collaborative working between non-executives and senior managers, whilst the formal design of an effective two-tier model remains largely unfamiliar.

4.13 A critical question for GTAs, and perhaps for other FE sector organisations too, is whether or not these limitations in governance have contributed materially to vulnerability in the past to business failures, unwanted mergers or takeovers which, whatever might have been their other attractions, have destroyed the essential character of the GTA. Equally important, are there changes which could practicably be made, which would reduce the risk of such unfavourable outcomes in future? Empirical evidence to answer the first question is probably impossible or impracticable to find. Certainly, the working assumption in GTA England has been that effective governance is necessary to safeguard the long-term health of GTAs and that there

are shortcomings which can and should be addressed. A commonsense response might be that strategic direction exercised by a relatively narrow (in terms of background and skills) and self-replicating non-executive group, which is not always closely intertwined with an executive team which possesses the separate but complementary understanding of publicly-funded education and training policy and practice, is vulnerable to the unexpected in terms of political and other change. The current GTA governance structure might be thought to have the merit of sharpness of focus, but the limitation of narrowness of perspective.

4.14 However, the path trodden by other FE providers, notably the colleges, does not appear attractive to most GTAs. Their own version of hybridity of structure and an explicit community role, has led them towards very large boards of governors, with considerable emphasis on democratic representation. That brings with it a corresponding need for procedural formality and complexity, which is foreign to most business people and to the company-limited-by-guarantee strand of GTA structure. While, as has been suggested above, the various constituencies embodied in the make-up of a GTA may bring their own tensions in terms of competing practical, ethical and moral considerations, simply increasing the scope and size of boards to make each strand of representation concrete, does not appear to GTAs to offer a promising route to resolution.

5 GTA Governance: The Future

5.1 GTA England's work to enhance governance has, for obvious reasons, concentrated on maintaining and developing existing strengths, whilst ameliorating or eliminating weaknesses. That process has been helped greatly by the candour of member GTAs, their openness to anything which improves their work, and their willingness to work together as local charities with national coverage. It is assisted also by the growing expanse of common ground among the separate codes of governance.

5.2 While the FRC code is much the most precise in setting out expectations and desirable structures, it acknowledges that it 'has been enduring, but is not immutable', with significant changes being introduced about every two years to reflect the dynamism – as well as the shortcomings in governance – of the business world. It emphasises the need to 'follow the spirit of the code' as well as the letter and the need for 'boards (to) think deeply, thoroughly and on a continuing basis, about their overall tasks and the implications of these for the roles of their individual members'. It suggests that 'whilst (stakeholders) have every right to challenge... explanations if they are unconvincing, they should not be evaluated in a mechanistic way and departures from the code should not be automatically treated as breaches'. The Charity Commission's recent guidance also centres on the same pragmatic 'Comply or Explain' principle, allowing CEOs and paid chairs to be trustees, for example, providing that a charity's Governing Document, approved by the Commission, permits this. Ofsted's *Common Inspection Framework* (2009, shortly to be superseded) defines the duties of governance as follows:

'Supervising bodies provide leadership, direction and challenge – set the mission and strategic direction – and establish effective arrangements to monitor all aspects of performance'.

5.3 It is possible in all this to glimpse the 'ideal' board, within the 'single tier' convention which, if emulated, would satisfy most, if not all, the expectations placed on hybrid bodies by their various regulatory and advisory authorities. If that is so, the conclusions of the 2009 study, that 'in a sector as diverse as FE, good practice is highly contextual' and that 'there is no common understanding of effective governance and strategic leadership', may prove to be overly pessimistic. On the face of it, it appears deeply unfortunate if not unlikely, that FE, with its largely-shared paymaster and assemblage of curriculum and qualifications, should find it more difficult to achieve common practice in its governance, than does the business world.

5.4 That projected ideal might closely follow the no-nonsense FRC code, with exclusions determined by the fact that few FE providers are public companies (i.e. disapplication of the Stock Exchange rules, the lack of owning shareholders in many cases, a marked difference of scale from the typical FTSE 500 company etc.). Its key features would be:

- Clarity about its stakeholders and what the organisation is for
- Clarity about relevant legislation and codes of good practice, with primacy given to the FRC code and the 'Comply or Explain' principle
- Some combination of executive and non-executive membership on the board (at least the CEO among executives) with non-executives always in the majority
- Clear acknowledgement that the board is at the summit of the organisation; the employer, the definer, defender and promoter of its values, mission, strategic direction, effective structure, probity, solvency and long-term success
- A pragmatic approach to payment of, at least, the chair in recognition of the chair's central role in good governance (the chair runs the board while the CEO runs the business), and the associated necessity of recruiting an experienced, high-calibre person to the position
- Open procedures for recruitment to boards against pre-determined profiles of skills and knowledge, taking proper account of the need for diversity
- A general presumption in favour of small boards, normally with 10 members or fewer
- A general presumption in favour of short (two hours or so) meetings held reasonably frequently (e.g. bi-monthly)
- Disciplined board procedure including the use of standing orders and authoritative advice from an appropriately-qualified company secretary (or clerk)
- Fixed-term appointments, normally of three years, with normal scope for one re-appointment and a maximum of two
- Routine and rigorous appraisal by the board of its own overall effectiveness, that of individual members (including the CEO) by the chair, and of the chair by a panel of non-executives
- Delegated powers to the chair to ask any board member who does not continue to make an effective contribution (e.g. through poor attendance) to stand down
- Formal written delegation of powers to the executive
- Effective use of committees to protect the main board's capacity to carry out its core functions and to remain focussed at a strategic level (e.g. the FRC recommended framework of Nominations, Remuneration and Audit committees)
- A carefully-worked out communications strategy so that good governance is clearly understood to be not solely the work of the board but also comprises its connectivity with stakeholders, the executive, the staff and learners in the organisation.

5.5 This outline has been built into the recommended governance framework for GTAs with a view to helping them to prioritise the differing prompts arising from their hybrid structure; the potential breadth of activities of boards; and the acute issues facing them – among all other FE providers. Whether or not it offers any kind of example for other FE providers will obviously be a matter for them. However, what may be worthy of further consideration is whether the various codes of practice which provider organisations are often called upon to abide by, might be made more manageable by applying subsidiarity.

5.6 In essence, there are few operational differences among the various codes.

As Carver suggests:

'Governance is best seen as ownership one step down, rather than management one step up'.

The ideas and obligations of 'ownership' do not vary greatly in today's world of interdependence and corporate responsibility, among the public, private and third-sector bodies operating in the public realm. Certainly, the evidence from GTAs is that member companies do not abuse their sense of ownership and, indeed, take the notion of public trusteeship to very considerable lengths in terms of prudent oversight of the organisation. There can be no question that

governance represents responsibility to 'ownership', however defined, but whether or not any particular form of governance adds value to an organisation or whether, conversely, it distracts managers from securing best value for 'owners' is of central importance. The evidence of the 2009 LSIS study, and that of this study of GTAs, is by no means unequivocal that the conventions current in the FE sector do so. That this may be a result of over-complexity appears to be a plausible argument: because complexity obscures the core tasks at hand, deters able people from tackling them as voluntary non-executive directors, and introduces damaging elements of confusion between non-executive and executive duties.

5.7 A sensible way to limit complexity might be for boards themselves to adopt one code to predominate over all others. In the case of the GTAs, the code most likely to achieve the necessary credibility is probably that of the FRC, because it was designed by business people and is constantly revised in response to developing business experience. For boards to be free to adopt a 'master code' of good practice, the sponsors of the other relevant codes (e.g. SFA, Ofsted, CC) would have to acquiesce. That such a pragmatic acknowledgement of a need for subsidiarity is possible, might be demonstrated in the disapplication of the Trustee Act, 2000, from charities which are also incorporated. Possible but not necessarily straightforward: simplification of the governance arrangements for the FE sector would have to be overseen by the bodies with the authority to achieve it – Parliament, the different ministries of state, the funding agencies and the inspectorate. If the case for it is compelling, simplification might form a policy aim of LSIS, representing improvement across the sector, perhaps complementing the evident need to train board members to cope with the present circumstances.

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