

Whose Board is it anyway? Improving governance through getting the most out of your Board

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Foreword



There are over 800 non-departmental public bodies in the UK; with no blueprint, this is a vastly diverse community of organisations, each with a distinct function, discrete stakeholder group and specific powers. Each NDPB presents a unique opportunity to create a world-class organisation delivering a critical public service role; however, almost invariably this presents a formidable challenge to its leadership. Most Chairs and Chief Executives thrive on a challenge but how can they maximise the chance of success? The starting point will be good governance.

Governance and accountability is a popular issue. Increasingly, the Chairs of non-departmental public bodies occupy exposed positions, under the public spotlight, where policy can change overnight in the context of the 24-hour media culture. Many Chairs find themselves leading the Boards of major, high-profile public service organisations at times of significant upheaval.

This year we spoke to around 60 individuals to find out what their experience has been in terms of getting the most out of their Board, and to find out what advice they might give to others. The purpose of the review is to encourage Chairs to be proactive, to have confidence in taking ownership of their Boards, and to assist new Chairs in making a success of the role.

We hope to stimulate discussion and debate around some of the real challenges for Chairs and the tools and networks that they would find useful. We are delighted that, this year, the National School of Government and the Public Chairs Forum have taken a close interest in the findings. We hope you, too, will find the insight valuable and that you will be encouraged to share your experiences with others.



Mark Turner
Lead Partner, National Practice

“Corporate governance is the way in which organisations are directed and controlled. It defines the rights and responsibilities among the different stakeholders and participants in the organisation, determines the rules and procedures making decisions on corporate affairs, including the process through which the organisation’s objectives are set, and provides the means of attaining those objectives and monitoring performance.”

Corporate Governance in Central Government Departments: Code of Good Practice, HM Treasury, July 2005

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Introduction

Background to this review

“I inherited a governance structure from hell; it was so broken, I had no mechanism for doing anything. It was 35-people strong, exec and non exec, and had several NEDs on the point of resigning. It was a rubber-stamping Board but I wanted a Board that challenges and is a critical friend. I want wise counsel.”

Last year, a report on the lessons learned from the start-up of Non-Departmental Public Bodies identified the need for more advice for Chairs and Chief Executives around setting up public bodies. During that debate, and since, it has become apparent that some of the issues covered in that review – including the value of a successful relationship between Chair and Chief Executive, and the importance of partnership with the sponsor department – are also relevant to the governance of ‘steady state’ organisations.

During our subsequent work with Chairs in 2007, other key messages have emerged concerning, in particular, the Chair’s task of creating and managing a Board which can deliver what the organisation needs, while at the same time managing the expectations of the sponsor. Every NDPB is different, and every Chair must build their Board on the foundations of this unique identity.

Issues of governance and accountability are currently perceived to be of relevance, especially in the Public Sector. Talking to Chairs, a key issue is what the responsibilities of each

Board should be, in the context of sponsor departments; what should be the contribution of non-executive directors and how can each Chair make the most of their Board?

In the context of the sponsoring department, whose Board is it anyway? Is the Board something that advises the Chief Executive and executive team, or is it the Chair’s Board, with the full weight of a chair’s overarching responsibility for corporate governance as a whole? Our findings indicate that, only where you have a truly independent Chair is there a real role for the Board, yet it is not clear how many instances there have been where this independence is genuine.

Our review is mostly about NDPBs and executive agencies, where there are clearly some real questions about who really owns the Board – and how each Board can be maximised. It is not intended as a heavy governance document; rather, our intention is to stimulate debate and discussion amongst the Chair and non-executive director community about the challenges they face.

In the following pages, we have touched on many of the issues raised in the course of our discussions, and have sought to distil from these some helpful tips and advice which can be used by Chairs to help them get the most out of their Board.

Methodology

Between August and November 2007 we interviewed around 60 Chairs, Chief Executives, non-executive directors and departmental sponsors, covering the following areas as applicable:

Context

Overview of the current Board / governance structure of your organisation.

What success looks like

The essential ingredients for good governance; the importance of the Board.

Board configuration

The size of the Board; purpose of the Board; differentiating governance from management.

Board effectiveness

Methods of evaluating Board effectiveness; managing Board performance; dealing with poor performance; appraisal systems.

Board practice

Management and prioritisation of Board business; tools and techniques for effective Board operation.

¹ This report does not consider the situation of Health Trusts.

Key relationships

The relationship between the Board and the steward department; impact of this relationship on Board effectiveness; role of the department in personnel issues relating to the Board (eg recruitment, reappointment, suspension and termination of Board members); ingredients of successful working between Chair and Chief Executive; skills necessary to develop formal and informal partnerships at Board level.

Non-executive directors

The respect in which non executive directors add the most value; whether or not non executive directors adequately understand their role and what they are there for; whether or not there is sufficient honesty around the expected time commitment of Board members; whether pay of non executive directors is an issue; the skills, experience and personal qualities Chairs look for in their non executive directors; whether there are issues in relation to the ability of Boards to attract non-executive directors with the required skills; the extent to which Chairs have been able to influence the selection of their non executive directors.

Support and guidance at Board level

What support do Chairs require during the time they are in post? Where do Chairs look to find this support? What support do non executive directors require during their time in post? Where do non executives look for support?

Context

Classified by the Cabinet Office, NDPBs are established to carry out their work at arm's length from Ministers. Ministers remain, however, ultimately responsible to Parliament for the activities of NDPBs sponsored by their department.

While NDPBs vary significantly in role, remit, size, shape and constitution, the Chair of each is accountable to the relevant Secretary of State for their organisation's performance and through him or her to Parliament. Similarly, the Accounting Officer (usually the Chief Executive, but sometimes the Executive Chair) is also accountable to Parliament but jointly with the departmental accounting officer, usually the Permanent Secretary.

NDPBs operate as part of a constantly shifting landscape: Government policy now changes quickly, not least because of the 24-hour media culture. Despite occupying a space that is at arm's length from Government and Ministers, NDPB leaders find themselves constantly needing to think about what is in the Minister's in-tray.

Chairs are increasingly required to decide whether, or at what point, to advise Ministers that an original strategy remains sound despite a change in context, whether to stand firm or change direction or initiative. Chairs who are required to challenge Ministers may find themselves in an exposed position; nonetheless, excellent Chairs and their Boards will be ready for such movement and able to make that judgement with confidence.

The role of the Board²

1. setting **Strategy**
2. providing **Scrutiny**
3. administering **Stewardship**
4. providing **Support** and
5. **Stretch** to the Executive

Key messages

1. While all NDPBs are given a Board, high-value Boards are created from a simple question: 'what do you want your Board for?' Creation of the Board must be aligned with its purpose. This will define shape and profile.
2. Whatever the structure and powers, relationships will be more important than structures and are key to the wellbeing of every NDPB.
3. All NDPBs are set up by Government to solve a policy problem: while they cannot be independent of Government financially, they can and should operate with as much independence as possible in relation to policy and strategy. It is this independence that is so valuable to Government.
4. The context in which NDPBs operate changes substantially, often in very short periods of time. Monitoring the performance of your Board, and its ability to meet its objectives, is absolutely critical and will help it stay ahead of the game. 'Whole Board' appraisal, supported by individual appraisal, will help Chairs to achieve success.

Getting the most from your Board

² From Julia Unwin, originally featured in Governance Magazine

Defining the Board's purpose

Knowing the deal in terms of the organisation's purpose is key to the successful governance of each organisation, enabling the Chair to have confidence and clarity around the Board's distinct role and function.

As the 2006 review *Right from the start: lessons learned from the start up of non-departmental public bodies* found, to be successful, the origins of each organisation must be clear to all key players from the outset. Our research indicates that this principle applies equally to NDPBs in a steady state mode; for a Board to operate effectively in terms of strategy and performance management, stakeholder relationships and governance, the Board needs to be designed to reflect the organisation's individual purpose.

On this basis, creating a powerful, fit for purpose Board starts with an analysis of what you want your governance to do. Do you need a Board to act as, for example, a think tank? A credibility-giving or "rubber-stamping" Board? A protective Board for a high-risk operation? A knowledge Board or a strategic Board?

The task of working out what the Board's role is falls to the Chair. The Chair must take the organisation's circumstances into account and consider whether their Board needs to be, for example, an internally-facing scrutiny body or an externally facing representational, lobbying or ambassadorial body; what size the Board needs to be to deliver this function, what skills it will need to draw on, and whether the organisation's constitution will support this.

Boards vary in role and impact, starting with that which exists as a "discipline", checking management information and ensuring the executive is performing as it should. This Board, through the experience of its non-executive directors, simply enables the organisation to deliver a better product. At the other end of the spectrum, the "value-add" Board adds value by getting the Executive to see and do things it would not have done on its own.

Financial arrangements

While the Chief Executive manages financial arrangements, through Accounting Officer responsibility, it is part of the Chair's remit to ensure that he or she and their Board are also clear on what the financial arrangements are in relation to spending flexibility – for example, if the Board disagrees with the financial settlement then it is the responsibility of the Chair to raise this with the sponsor department.

Legal powers

All NDPBs are creatures of statute; once clarity has been achieved in relation to the purpose of their organisation, the Chair must ensure that its powers are relevant and sufficient. Our research suggests that this is a significant issue, particularly when an NDPB is asked to take on new activity. In such instances, the Chair needs to ensure that his or her organisation has adequate powers to accept this, and is able to manage the risks introduced by it.

Our research suggests that, when this happens, the Board can be vulnerable to splitting and the situation is likely to require a strong Chair. The excellent Board will be prepared to respond to such unexpected demands with confidence and clarity.

Transition arrangements

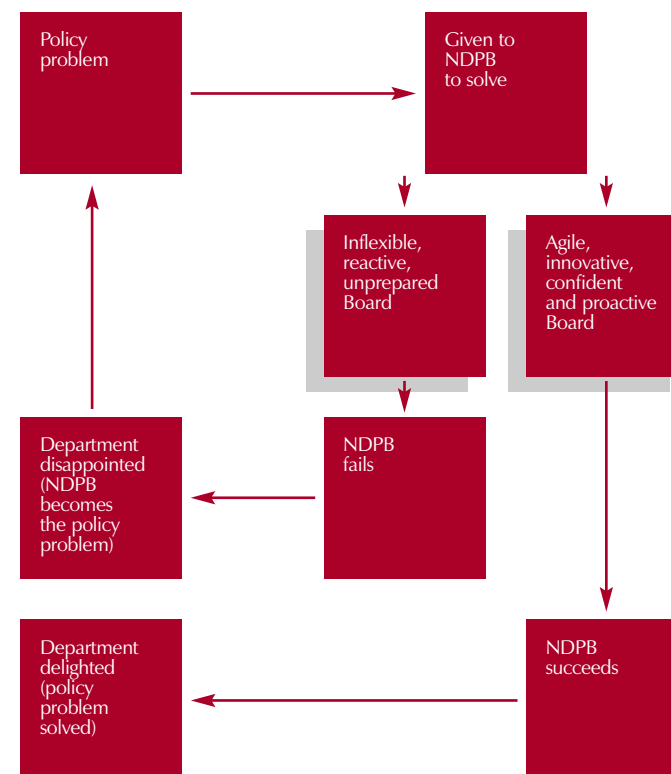
For NDPBs in start-up mode, or in transition from a precursor body, the Chair should ensure as early as possible that there is an appropriate project plan in place. New Chairs may find that if this has not existed prior to their arrival, there have already been plans put in place which effectively command resources in ways other than you would expect.

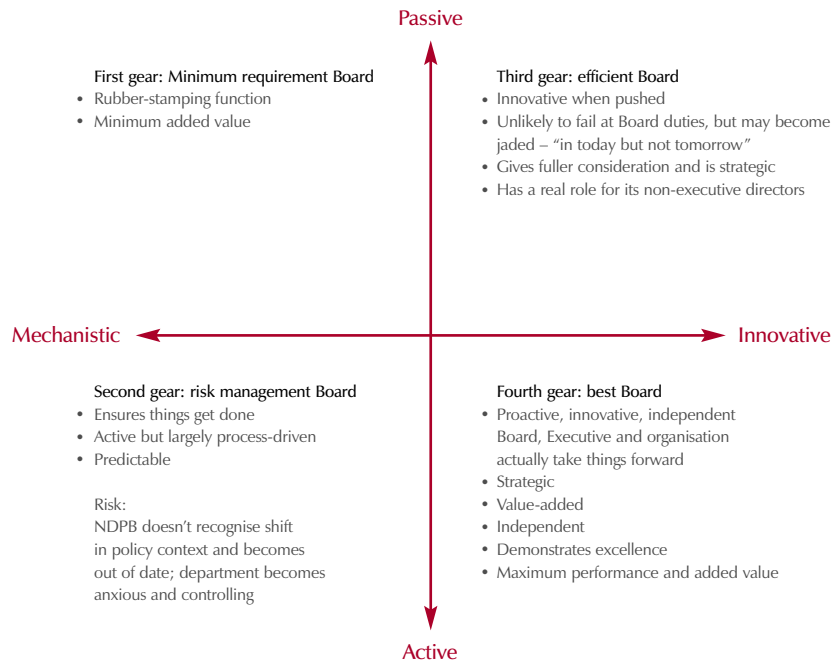
In instances like this, the Chair will need to find out what resources there are available and assume control. If an NDPB is established by statute, the tendency is to create the organisation first, so it is in being when the statute is going

through. This provides an opportunity to influence the level of powers an NDPB has. Chairs may sometimes need to challenge draft powers, particularly around powers of consultation and reappointment of non-executive directors.

If you are fortunate enough to be Chair of a start-up or transition, it will be a valuable use of your time to think through the governance issues early, such as what the function of your Board will be, and ensure you are able to influence the agenda moving forward.

Why your NDPB exists: solving the policy problem





Size and shape

The size and shape of each Board should be determined by its unique requirements. Our research indicates that a Board's size has an impact on its dynamics. The consensus of those we consulted is that a Board membership of anywhere between 10 and 14 is acceptable, although more than 10 members constitutes a large Board. The findings suggest no direct correlation between size of organisation and size of Board; however, there appears to be some correlation between the sensitivity of a policy or delivery area and Board size. In this respect, larger Boards may exist for those organisations handling the most sensitive areas of Government business, or those with a wider spectrum of stakeholders.

As a rule: the smaller the Board; the richer the conversation; the better the dialogue. Findings indicate that Boards which are overly large experience some common problems:

1. Insufficient air time for members, compromising quality and depth of conversation and resulting in dialogue made up of two-minute soundbites.
2. Difficulty managing, recognising and rewarding the performance of non executive directors – how do you truly evaluate the individual contribution of all 18 members, for example?
3. Breakdown of the Board to form 'cliques'.
4. Difficulty retaining strategic focus.
5. Absenteeism becomes harder to manage.

There are substantial variations in Board shape and make-up, ranging from all non-executive Boards to Boards with a 50/50 mix of non-executive and executive. According to function,

Boards also vary in terms of advisory or stakeholder membership. Some are almost entirely made up of stakeholders, while others bring onto the Board those who have the skills and experience required to perform a function but who possess neither sector nor specialist subject knowledge.

Roles for shadow Boards

Shadow Boards can be a useful asset to an organisation as an advisory entity, consisting of stakeholder representatives, as a way to test and develop ideas. Boards typically consider three classifications of agenda item: items for decision (little discussion involved and usually a yes / no response); issues for development (the full discussion pending decision in the following meeting) and report (to note; not for discussion). It is during the development stage that shadow Boards of this nature add the most value.

Our research reflects a desire, in cases of stronger performing Boards especially, to invite executive directors only to present relevant papers, and to limit input by the departmental sponsor at formal meetings. These Boards have found other ways of involving the Executive and the department, so the strength of relationship in both cases is preserved.

One organisation we spoke to has capitalised on its unique identity to create a Board for itself which is half executive and half non-executive, and where its non-executive directors are appointed for their skillsets which enable them to 'partner' executive directors. Non-executive directors, then, have two roles to play; one is to be on the Board, the other is to mentor the relevant executive director.

In this model, aside from Board meetings, it is up to the Director to use their non-executive counterpart in the most effective way.

This provides non-executive directors with both access and insight into the organisation which they are then able to play back at Board level, with a view to the organisation's strategic development.

While this would not be a suitable model for a large number of NDPBs it nonetheless shows how an organisation has sought to make the most of its individual purpose and constitutional set-up to create a Board that is tailored to its distinctive needs.

Operating through Committees

The Chair and his or her Board needs to hold the Executive to account; to do so requires a means of drilling down into the organisation in order to gain assurance around the processes and controls in place. For this reason, the Audit Committee is the most common sub-committee structure and our research suggests that a strong and highly skilled audit Chair is a significant asset.

Views are, however, mixed in terms of the relevance of wider sub-committees, and also on the extent to which organisations benefit from these structures. Some organisations have only one Committee (to undertake the vital Audit function); others have a large number of committees in place – for example, "expert" committees focusing on a range of in-depth and specific policy issues. Again, the number and type of committee in place will be determined by the individual role and remit of the Board.

Our research does, however, reflect a general consensus that having too many committees encourages over-interference of non-executive directors in executive matters. Committees must, therefore, observe fully the boundaries between non-executive and executive responsibilities.

Populating the Board

“Your Board will only ever be as good as the people who are on it ... there is little worse than an underpowered Board”

The process of agreeing the skills, experience and aptitudes that respective Board members need, emerges from the earlier process of analysis in relation to the Board's purpose and remit. Once the purpose of the Board has been confirmed, it is possible to draw up a series of skill requirements and person specifications which will deliver. All job descriptions should, however, be designed on the basis of a thorough understanding of the respective roles of Chair, Chief Executive and non-executive directors.

The key message on this subject throughout our research was: “your Board will only ever be as good as the people who are on it”. There is consensus around hiring skills in line with what you need your Board to do and what you want it to achieve, around hiring attitudes as opposed to ‘names’, and around covering all knowledge bases.

Bring on to the Board a diverse mix of ethnicity, gender, professional and sector perspective and opinion. You may find a shadow Board structure useful if a range of opinions are of value to Board business.

Recruiting the Chair

“People worry more about a dominant Chair than a difficult CEO.”

The Chair carries huge responsibility for the ethos and atmosphere of their Board and their appointment is absolutely critical to the overall

success of the organisation. Yet our research indicates that the quality of these appointments is not given sufficient priority by departments, until it's too late.

The Chair is relied upon to create a sense of readiness in their Board, so that it has the confidence and competence required to protect the organisation if the environment should change suddenly; the Chair also creates the conditions in which excellence can thrive.

However, our research suggests that Chairs perceive there to be ambivalence within Government with regard to the Chair role, with “real debate around what the salary should be; whether in fact Chairs should get a proper salary at all – and what status they should be given”. A few Chair roles do remain unpaid; however, in general, posts are salaried despite varying substantially.

A new job description and person specification should be created for each new Chair appointment. Getting the Board right depends to a large degree on the skills and style of the Chair, so successfully recruiting the right weight of experience in the Chair is a crucial part of the process. Sponsor departments should recognise the value of this appointment at the outset and invest in getting it right accordingly; failure is likely to be costly, in both financial and reputational terms.

Chairs consider political handling skills as the most important in their ability to do their job effectively; in terms of personal qualities, judgement and resilience were the most frequently cited. As Chair, it is critical to be both ambassador and leader of a strong business entity and each job description should be planned carefully to ensure that candidates with the right skills, experience – but also motivations – are attracted to the post.

Recruiting non-executive directors

“Becoming successful in an NED appointment must be hard work, to reflect the value that the NED contribution has.”

The best Boards are made up of people who bring expertise but who also come as individuals to the table. Again, the job description and person specification for a non-executive director needs to reflect the unique requirements of the Board.

In a start-up scenario, once appointed, the Chair is normally involved in selecting his or her non-executive directors, often in partnership with senior departmental officials. However, in a steady-state environment, a new Chair will join a Board that is fully formed and which may consist of members who have been only recently reappointed.

The key role of non-executive directors is to bring scrutiny, external experience and “challenge power” to the Board. Each individual non-executive director plays a crucial role on the Board of the NDPB, in particular through judging when to ask the ‘killer’ questions.

Many respondents believe that pay for non-executive directors is, in many cases, too low; in our wide experience of recruiting to such posts, our assessment is that it varies substantially. Along with marketing the Board effectively so that it appeals to the widest pool of candidates, remuneration is a significant factor in the Board's ability to attract talent, especially from the private sector.

More work is likely to be needed in putting a value on a good non-executive director and a

good Board – too often, it seems, Government departments see them in a mechanistic ‘rubber stamping’ category. To this end, greater clarity on the identifiable value of non-executive directors would be helpful.

The potential contribution that non-executive directors make appears to be frequently underestimated, especially by Government departments, and some good quality academic work will help quantify the contribution that non-executive directors make. Only on this basis will remuneration levels increase.

In engaging senior recruiters in non-executive director search and selection services, departments should satisfy themselves that consultants understand, and can recognise, good non-executive directors.

Top 20 non-executive director qualities

1. Incisive contribution: asking the ‘killer’ questions
2. Disciplined approach to attendance and input
3. Trusted to challenge or criticise supportively
4. Strong communicators (non defensive style)
5. Able to articulate views and personal opinion in a constructive manner
6. Understands and handles accountability
7. Enthusiastic for the organisation and for the issues
8. Creative
9. Visionary
10. Outward-looking
11. Good advocate
12. Committed to the vision
13. Helps the Board to operate as a team
14. Capacity to act as wise counsel
15. Intellectual capacity
16. Personal flexibility
17. Judgement
18. Knows when to talk and when to listen
19. Flexibility of stance and opinion: able to rethink prejudices, capacity to forgive
20. Draws on the lessons they have learned

Other issues highlighted by our research concerning the appointment of non-executive directors include the need for greater honesty around the real time commitment involved in performing the non-executive director function well, and conflict of interest.

Conflict of interest is often a question of judgement: some Chairs recognise that they need to bring onto the Board someone who technically has a conflict of interest, because they have the experience that is required by the Board. The issue is how this is then managed; it is critical that the Chair, non-executive directors and Executive must manage such conflicts effectively.

Finally, how do you, as Chair, get the non-executives you want within the parameters of Nolan and the need to achieve public accountability? Roles in public life have to be advertised, and Boards need to achieve genuine diversity. Securing the right non-executives means attracting the right candidates to apply for the post and this is key to appointing the right people for your Board. In essence, the Board needs to be marketed in such a way that it can attract high-quality non-executive directors from a range of sectors. Finding new talent with an emphasis on under-represented groups, is a major priority for many boards.

The parallel Board: bringing talent through at Board level

There is agreement that the best Boards are made up of people who are very different from each other, providing the Chair effectively manages these relationships. Much of the ability to operate at Board level depends on an individual having developed the awareness, confidence and experience of working as a member of a diverse team.

On this basis, a second type of shadow Board – an ‘associate’, or ‘parallel’ Board made up of associate members – can help you grow talent for the future. This is most likely to be a small group of individuals who have been identified – possibly through a recent recruitment exercise – who have been assessed as having the talent and potential to become excellent non-executive directors, but who would benefit from shadowing or ‘observing’ opportunities.

In the executive context, one respondent uses a full shadow Board to grow talent at this level. Their technique involved the creation of a ‘parallel’ Board structure, consisting of nominees from within the (executive) organisation who provide challenge to the Board on specific issues of relevance.

This model has a number of advantages; it provides an opportunity to focus on issues relating to diversity, for example; it creates a senior forum for reporting back to the Board on change, and on other high-level, strategic issues. Crucially, it provides an opportunity to build the next generation of Board-level representatives and creates conditions for building a cadre of people who know how the governance structures work, how the Board operates, and who are supportive of it.

In the model provided, the shadow Board exists for one year only – each major department selects its own representative for the parallel Board and nominations go to the Remunerative Committee, which then decides on final composition. Two non-executive directors were also appointed to sit on the Board.

Parallel Board members have some authority, although this is managed. In practical terms, two members of the Board proper attend parallel Board meetings and actively contribute. The parallel Board’s task is to pick two points on the forthcoming Board proper’s agenda in relation to which they will contribute at the meeting itself. Two representatives from the parallel Board attend the next management Board meeting where they are treated as equals.

The shadow Board, as does the Board proper, undergoes development days and is subject to 360 degree feedback. The experience amounts to high-quality training and development, but in an applied setting.

Other Chairs invite candidates who applied for non executive roles previously, but who were not appointed because they had learning to do, to join the Board as an observer, in order to offer the direct experience with the potential for appointment longer-term.

Tailored induction and support

“The only way to understand how something works is to meet the people implementing it. I want my Board members to be interested in what happens on the shop floor, doing shadowing plus feeding back on what they see. Get them in business.”

Our research indicates that current induction arrangements for Chairs, and potentially non-executive directors, would benefit from refocusing and strengthening. Where induction is offered, it is not always felt to be fit for purpose and induction and training products could better meet the needs of those they are designed for.

The most valuable induction is considered to be that which has practical value, involving engagement with the work of the organisation. Many of those we spoke to said they find it immensely helpful to immerse themselves in the business of their organisation, meeting key executives, getting out ‘into the field’ to see how customers and service users experience services, and meeting a range of stakeholders. This helps them develop a necessary sense of context, to which they can then apply their own knowledge and experience.

For Chairs entering the NDPB Board room from outside the public sector, training is most valuable when it focuses on those issues relevant to Whitehall and Westminster, which generate unfamiliar challenges such as Parliamentary accountability and specific Ministerial or departmental protocols. These Chairs may find a system of facilitation and interpretation around some of the more technical issues, such as the Spending Review and legislative procedures, helpful.

Once in the role, Chairs seem to benefit the most from access to peer networks, through which they find support when they need it, and through which they share both their experience and ideas.

Two induction options for new chairs

What Regular seminar, cross-Government

When held on a six-monthly basis for all new Chairs to attend

Attended by incoming Chairs

How long one half-day

Format the first part, by a senior representative from a sponsoring department, which looks at expectations of the Chair by the department.

The second part, a session with an experienced Chair who can provide insight and personal experience.

What Familiarisation session, organisation-specific

When as soon as the new Chair starts; potentially when the Chief Executive starts

Attended by both the new Chair and the Chief Executive

How long one half-day

Format partly facilitated by a senior departmental sponsor, both leaders attend the same session, where they go through the same process together, covering all aspects of governance relevant to their organisation. This is an opportunity for them to spend time together focusing on the 'ground rules' of the relationship and is likely to be a significant aid in this critical relationship.

Key relationships

“At the end of the day it's all down to the human dynamics of things.”

While all chairs need to make sure that they have good governance structures in place, our research clearly indicates that relationships matter more than these. There is consensus that, with the right constellation of relationships, any Board structure will work. Conversely, it only takes one bad relationship to change the atmosphere and threaten the effectiveness of a Board.

The Chair / Chief Executive relationship

“The Chair, if not careful, can stray into the terrain of the Chief Executive and potentially become impatient with the Board. Chair and Chief Executive should remember that their roles are opposite.”

All Chair / Chief Executive relationships are different and Chief Executives who have had two or three Chairs, and vice versa, will endorse this. However, the Chair and Chief Executive relationship is absolutely vital and sets the tone for the way a Board behaves. In short, the way the Chair and Chief Executive communicate, their general approach and values, and their respect for each other can make or break an organisation.

One respondent was at pains to stress that too close a relationship between the Chair and Chief Executive is not healthy.

The Chair should take responsibility for this relationship and self-consciously highlight the need to develop the relationship successfully. Emphasis should always be placed on the importance of personal chemistry when recruiting a new Chair or Chief Executive; our research suggests that this aspect is all too often overlooked, yet this key relationship is one of the most critical factors in an NDPB's ability to succeed.

Our strong recommendation, based on our research and on our wide experience of appointing to NDPB leadership roles, is that a thorough brief is taken from the existing leader, so that a suitable counterpart can be secured. During the recruitment process, there needs to be maximum articulation of, and clarity and consensus on, the relationship between executive and non-executive.

Once in post, the Chair and Chief Executive will need to spend dedicated time together as early in the relationship as possible, and preferably prior to the start date. This is felt to be most effective when it takes place off site, and has scope for both formal and informal dialogue.

The induction process for new chairs should support and encourage a strong relationship with the Chief Executive; a half-day session for both leaders, in part facilitated by a consultant, occupational psychologist or senior departmental official from the sponsor department, may be highly beneficial. The advantage of having a senior official present for part of the session is that it enables the Chair and Chief Executive, as a unit, to 'strike a deal' and confirm working arrangements with the sponsor together.

The Chair and Chief Executive must be absolutely clear on their respective roles from the outset; once this is achieved, there is room for a mutually supportive relationship to develop. Our research indicates that difficulties tend to occur when the Chair substitutes the Chief Executive's judgement for his or her own: the key for any Chair is to understand the limits of the Executive's responsibility.

An honest and frank dialogue is, of course, to be encouraged. The relationship has reached a higher plane when contentious issues can be discussed one on one with the ultimate outcome agreed by both parties as the best result for the organisation.

“My Chair and I used to go at it hammer and tongs behind closed doors but the moment the door opened there was not a cigarette paper between us”

Chair / Deputy Chair relationship

A key task for any Chair is to decide whether or not to have a Deputy and, if so, what their role will be. Some Chairs regard a Deputy as a significant asset to the Board and to them personally; in cases where there are limited sub-committee structures, the Deputy Chair may become more involved in financial matters; they may also have an involvement in issues of staffing as appropriate, or carry out 'internal' Board evaluation, moving between the Board and the Executive.

The Deputy Chair's role in the non-executive / executive interface should always be clearly defined. While most Chairs see real value in the Deputy Chair role, and use it to significant advantage, where this is not the case there is scope for "three is a crowd".

Sponsor and Chair of the NDPB

"Clarity and transparency are the foundations of mutual trust and respect. I've found the best relationships thrive on strong communication and on understanding, and managing risk together."

When a Chair gains the trust of his or her sponsor, intervention is kept to a minimum. From the departmental point of view, the Chair's independence – so long as the NDPB is performing – is their most valuable asset.

Therefore, our research indicates that the governance of an NDPB clearly benefits from a strong and positive relationship with its sponsor department. This relationship appears to work best when it is two-way: when the NDPB

helps officials to deliver an area of policy given to Ministers, and when the sponsor supports the NDPB and keeps it in the policy loop.

The Chair should seek to 'strike a deal' with their sponsor, based on open and constructive dialogue, during which the ground rules of the relationship are agreed. Following this, the Chair should agree with the Chief Executive for regular meetings with the department to take place, to strengthen communication and highlight any issues that are likely to arise.

Chairs benefit from managing the department with their Chief Executive and from bearing in mind the relationship and interaction between Chief Executive and departmental officials; unless this is open and agreed, it can corrode the Chair / Chief Executive relationship.

The advice of Chairs of some of the most successful NDPBs is to work with officials, to be supportive and open about problems as they emerge and to seek to deal with them constructively and in the spirit of partnership. It is useful to find means, beyond the formal Board structure, of building and maintaining relationships with the department; a number of Chairs we talked to have developed effective means of achieving this.

Our research strongly indicates that NDPBs are better able to manage risk through horizon-scanning in partnership with their sponsor department, and by creating strong partnerships founded on mutual recognition of the pressures placed on each party, both by operational targets and by accountability.

Sudden changes in policy, and the pressures involved in delivering public services, also affect Whitehall and the experience of civil servants. Recognising and accepting this,

say respondents, will oil the wheels of a key relationship.

Research suggests that success in this relationship depends on four key factors:

- there is shared clarity over the purpose of the NDPB and its Board;
- the Chair is considered to be the right person to lead the Board and therefore has the confidence of the sponsor department;
- the sponsor department trusts the NDPB to deliver agreed outcomes;
- the Chair values and trusts the input of an appropriately senior official from the sponsor department.

Levels of involvement on the part of the sponsor department in formal Board meetings are variable according to our findings. Accountability requires NDPBs to be independent and it is important that the Board has – and is given – the space in which it can operate independently and think for itself. While a number of Chairs have successfully integrated this key relationship into Board business in less formal ways, very few accommodate departmental representation at the formal Board meetings.

The level of involvement a departmental sponsor has in official Board business varies; according to our research a small number of Boards have as a matter of routine a member of the department attend each Board meeting. For others this would be regarded as a significant infringement. The view of most chairs is that the Board can quickly become a vehicle for the department if there is too much access and influence in formal Board affairs. When this happens, there is a serious risk of the Board's power being disabled.

Bringing the Board together

Ground rules

As our findings indicate, it is largely relationships and behaviours which determine the value of the Board – and where, and how, non-executive directors add value.

Most chairs we spoke to do not feel the need to establish ground rules with their Board as a whole, preferring to avoid introducing a formality which might interfere with the natural dynamics of their Board. Many prefer to agree with individual Board members up front (ie on appointment) what is expected of them, and manage both content and style of contribution through the ongoing appraisal process.

However, some have found it useful to set ground rules, especially where:

- the Board has had a history of weak leadership or poor performance;
- there has been a recent intake of a large number of new non-executive directors;
- non-executives from other sectors have recently joined and there is a need to re-establish the rules of engagement; or
- the Chair is taking on a new Board.

Many Chairs find themselves needing to strike a balance between encouraging appropriate behaviours for their Board, and preserving diversity through retaining the unique value that new thinking and attitudes bring to the team. Where non-executive directors have joined from outside the Public Sector, the Chair should have ongoing discussions with them to identify the boundaries.

Planning Board business

The Board needs to deal with the right issues at the right time of the year: strategy, for example, will tend to dominate the agenda in March for most NDPBs; the Annual report will tend to dominate in June.

Most Chairs we spoke to feel they benefit from a regular session with the senior executive responsible for delivering information to the Board, to plan the agenda in advance. This is sometimes the Chief Executive, but in some cases is a Head of Corporate Affairs or Head of Secretariat, often serving the Chair and Chief Executive. Regular meetings provide an opportunity for the Board and Executive to think ahead and, together, ensure that the Board develops thinking and takes decisions in a way that best benefits the organisation. It is also helpful for the Chair to be aware of any issues on the horizon where the discussion may need extra time, specific attendance, or careful handling.

Most Chairs we spoke to emphasised the importance of work coming to the Board prior to finalisation, so there is adequate scope for the Board to contribute positively.

Board away events

An annual “awayday” or strategy event presents an ideal opportunity for the Board to come together, to take stock of progress and develop strategy for the coming year, based on the unique context and environment in which it operates. Most Chairs make the most of this opportunity, also, to review the Board’s own progress over the last year and the lessons it has learned.

Critical meetings such as away events, major meetings to discuss alterations to the organisational or Board structure, or meetings where difficult issues may be raised are likely to benefit from a trained facilitator or occupational psychologist who is able to drive learning through, both as a group and individually, and to manage the dynamics of the debate.

Options for informal meetings

“Prior to the main meeting, we have coffee and an operational update, so all members of the Board are sufficiently informed to take strategic decisions.”

Boards clearly benefit from opportunities for less formal engagement; informal meetings offer scope for a wider, or different, membership, and encourage relationships to develop across the Board and potentially the Executive and Sponsor Department.

Three popular techniques are:

- **Holding a monthly Board dinner the evening before the meeting.** This may be for the Board alone, or with “Board plus” membership, for example, introducing a senior representative of the sponsor, senior executive directors, or external stakeholders. One approach is to introduce a relevant policy theme to the dinner, which is discussed before the evening takes a less formal tone. This has proven to be an invaluable tool in “warming up” the Board for the next day’s business, and for building relationships across the Board and more widely.
- **Holding a pre-meeting on the day of the Board meeting, with coffee and an operational update from the Executive.** This would normally consist of the Board, hosted by the Chief Executive and with executive directors present. The aim of this kind of session is to provide the Board with an up to date context prior to the requirement for them to take decisions.

- A lunch between morning and afternoon sessions of the monthly Board meeting, which is better suited to Board members who are unable to commit to an evening engagement because of childcare responsibilities, or travel requirements. This option provides a convenient ‘breaking’ point for meetings where there is an especially heavy agenda, or where there are difficult issues to discuss. Participation is widened perhaps to include executive directors, or staff from across the organisation, presenting an opportunity to “get to know” the Executive and the day to day business of the organisation.

Administrative support

The strong view across respondents is that a strong, high-quality administrative function adds a lot of value to the way the Board operates and can form a useful link with the Executive.

A range of models is apparent for Board administration – many organisations house this function within a corporate services team, in an ‘outer office’ capacity, or within legal services. There are accepted disciplines concerning Board management which have their roots in the Standing Order and which include the frequency of meetings, production of minutes and preparation of paperwork.

In some instances, the Secretariat performs functions outside the Standing Order, helping with the strategic thinking and performing a “challenging” function in relation to the forward agenda, which is kept under strategic review between the Chair, the Chief Executive, and Head of Secretariat.

An effective Secretariat can also help the Board to take learning forward in relation to its performance.

Management information

The Secretariat should also process and quality-assure management information going forward for consideration or note by the Board.

Our research indicates that poor-quality management information is viewed by Chairs as a significant barrier to effective governance. Chairs may benefit from agreeing with the Executive to have the best quality data possible to work with – “one-truth” financial reporting, clarity and accessibility of information, and relevant, strategic focus. However, in some instances, data collection – as opposed to presentation – is the issue, with ‘holes’ in the figures and the wrong type of information generated by the systems in place.

This situation naturally compromises the ability of any Board to govern effectively. Data provided to a Board must allow its members to obtain an adequate understanding of progress and equip them with sufficient detail to ask the killer questions. But this does not mean swamping the Board with data that is not fit for purpose; again, a high-quality secretariat can act as a useful intermediary in this respect.

Monitoring performance

Performance management for chairs

“I manage the Board and the Board manages me.”

Our research showed that there are many, varied performance management models in place for non-executive directors. For Chairs, however, the performance management is not consistent across NDPBs, save for the routine purposes of reporting by the sponsor body, or where the relationship between the sponsor and the NDPB is more fragile. Indeed, many Chairs do not even have a job description against which their performance could be measured.

While there are protocols around how the performance of Chairs may be appropriately appraised (given their status and also given the nature of the relationship between NDPB and an arm's length body) the conversations we have had in the course of this research suggest that Chairs welcome feedback on their performance.

Ideally, the Chair should be appraised annually by the senior reporting officer in the sponsor department. They are felt to need at least one objective relating to Board performance but also to be assessed on the basis of organisation performance.

While Chairs are less likely to be interested in “learning”, they expressed a higher level of interest in gathering insight and information from peers which provides them with practical help in overcoming some of the barriers they encounter. This is also about companionship as, increasingly, Chairs find themselves in exposed conditions, potentially with little support – especially if they are driving through change. In these instances, relationships with peers offer a vital sense of validation, community and shared experience.

Performance management of non-executive directors

To support the process of overall Board performance management and assessment, the contribution of non-executive directors needs to be assessed on a regular, individual basis, ideally against personal objectives set by the Chair.

Some Chairs are already appraising Board colleagues in detail on a quarterly basis; others make time to see their non-executive directors on a one-on-one basis at least twice a year. While non-executive directors are required to undergo performance appraisal, there is some debate around whether or not non-executive directors should have specific objectives, or should be assessed on competences which are linked to the Board's overarching aims and objectives.

Appraisals are necessary for personal development, but they can also make for good risk management, particularly if a Chair later needs to tackle performance issues or decides to make changes to Board membership in order to update the Board's representation or enhance its effectiveness.

The most popular issues covered in the appraisal of non executive directors are:

- Is business meeting their expectations?
- Are they able to make the forward dates?
- Is there anything in particular they would like the Board to look at?
- What tools and information do they need to be more effective?
- Are they happy with the regularity of meetings / business?
- Are they happy with the quality and quantity of information?
- Are they happy with the Board / staff relationship?
- Are they happy with the size of the Board?
- Are they happy with the extent and quality of their induction?
- Do they feel comfortable with their understanding of the organisation?
- Are they comfortable with the committee structure?

On a less formal level, the Chair can assist non-executive directors to be more effective by asking them if they feel their time is used effectively; by contacting them personally if they miss a meeting; by asking them what tools, information and support they need to be more effective, and by asking what they would like their legacy to be when they move on.

The most common issues with non executive director performance

Throughout the course of our research, the following emerged as the most regular types of performance management challenge:

- unmanageability – disruptive influence; undisciplined communication (talking over others, unresponsive to the Chair);
- bullying or subversive behaviours;
- frustrated executive syndrome – interfering with day to day business;
- non corporate – attacking proposals and policies; lobbying or causing embarrassment through inappropriate public or media engagement;
- non-attendance at meetings;
- lack of appropriate knowledge and skills;

Non-executive directors are valuable assets costing public money: it is the Chair's responsibility to make the most of their time on the Board.

Bringing relationships to an end

Based on the material gathered throughout the course of our research, non-reappointment appears to be easier to manage in a situation where an appraisal system has been used. The sponsoring department can also be helpful and, providing the relationship is good, may assist the Chair in not reappointing a non-executive director if there is a good reason for not doing so.

However, non-executive directors are Ministerial appointments and this makes removal of Board members by the Chair difficult. In local government, for example, it may be easier to bring an unsuccessful relationship to an end: people can move on, and be moved on, with comparatively little difficulty. In Whitehall, however, this is different and it is much harder to move people on owing to Treasury rules. In Whitehall, the requirement to seek Treasury consent means that the process can take considerable time to complete – if it completes at all.

Using a personal development plan puts the Chair in a stronger position to manage the risks associated with deciding not to reappoint a member of their Board. There are four golden rules which can be observed by Chairs to make for the smoothest management of a ‘non reappointment’:

- have the Board member hear it from the Chair before they hear it from the department;
- have an annual appraisal to support your decision and manage the situation;
- if your need for skills and expertise has changed, make sure you are as clear as possible about this in advance;
- avoid treating the Board as your own personal fiefdom – the Board will have something to say about any proposals to alter composition or skillset.

Of course, the need to move a non-executive director off the Board need not indicate that the individual in question has done anything wrong; it may simply be that the Board is required to change in response to contextual changes and bring in new or different skills and abilities.

However, the reality is that most Chairs are invariably forced to wait until a term has expired before introducing much needed change to their Board; even then, it can be taxing following through a decision not to reappoint a Board colleague.

Whole Board evaluation

To generate and maintain high performance standards within an NDPB, every Board should be subject to a challenging evaluation of the way it functions, and its effectiveness. Our research indicates that a Board will benefit from an annual ‘healthcheck’, focusing on its performance against its overarching aims and objectives for the preceding year.

In terms of Board evaluation, self-review is an effective means of reviewing behaviour individually and collectively; however, it needs to be both regular and rigorous. In addition, an annual 360 degree appraisal of how Board business is going is highly beneficial, say a number of Chairs and Chief Executives.

Boards need to talk to stakeholders and keep customer and service-user perceptions under review. Using stakeholder insights – surveys and perceptions audits – can be relevant and valuable, as can be interviewing the Chair, non-executive directors, and the Executive.

Our research indicates that investing in a full review of your Board’s effectiveness is most valuable immediately prior to restructuring or a volume intake of new non-executive directors. In this instance, including both outgoing and incoming Board members in the review can make for extremely valuable results.

Healthy Boards are more likely to report the following: high levels of energy and innovation; effective decision taking; a positive relationship with the Executive, including a high level of trust; supportive relationships across the Board; non-executive directors with a sense of validation and recognition for individual contribution; sense of direction and movement: the Board feels like it is going somewhere; non-executive directors who are comfortable working together, likely to form strong partnerships and look forward to meetings; high attendance rates and high levels of satisfaction with the type and quality of supporting paperwork.

Conversely, our findings are that the following are regarded as the most common risks to effective governance: a Board with major

skills gaps; too many people with the same skills; too much consensus; a team that is “hard to get going” at meetings; inappropriate appointments to the Board; poor quality management information and supporting paperwork (supporting analysis; minutes etc), and limited availability of Board members.

Our research indicates that there are three main approaches to Board evaluation; some Boards make full use of all three at different times of the year to assess the Board or organisation’s development; others use just one method on an annual basis or when relevant and useful:

What Self-assessment, the least formal Board appraisal

Who Carried out by the Board itself

What Leadership appraisal, a tightly contained method of appraisal, useful for focusing on the Executive / Non executive relationship

Who The Chief Executive and Deputy Chair, who canvass views from the Executive and non-executive respectively and come together to exchange findings. Conclusions are then presented to the Board and discussed.

What Full health check and analysis, Board development and performance evaluation; this is the most formal approach.

Who An external facilitator who assesses effectiveness against a structured framework and makes full recommendations. This review typically looks at whether or not your Board has the right balance of qualities and skills, the extent and quality of the Board’s contribution, and its impact on organisational performance. To this end, a range of fitness for purpose tools are being developed by individual organisations and by a range of consultancies.

Building on the strength of your Board

Once an evaluation has taken place, it may be appropriate to introduce activities to strengthen aspects of the Board's performance or behaviour. Some options are:

What Coaching and mentoring

How any non-executive directors, or the Chair, assigned on an individual basis

What Top team facilitation

How Most relevant, perhaps, to events such as an awayday, this approach helps both executive and non-executive top teams to develop as a team, maximising their own effectiveness and contribution. Facilitation focuses on the dynamics of the team, engaging it on the strategic issues, creating synergy and building commitment.

What Leadership development

How By supporting the induction of new leaders into the business and working to support the required competencies and behaviours for successful performance.

Six steps to creating a high-value Board For Chairs

1. Every Board needs to be built according to what it needs to do and what you want it to achieve. This starts with a rigorous analysis of the objectives and strategy of the organisation: what do you want your governance to do? The Board must then define, agree and commit to the success criteria by which it will be judged.
2. Define and agree your Board's relationship with the Executive. Achieve the buy-in of Board colleagues in terms of how the Board is going to work and create a strong axis, in particular, between you as Chair and your Chief Executive; build this alliance on a high degree of personal, two-way, engagement and support.
3. Strike the right deal with the sponsor department: agree the boundaries and communicate relative positions and perspectives clearly and constructively. Lead by example in the relationship by fostering a culture of mutual respect and trust between Ministers or officials and yourself as the first ambassador for the NDPB.
4. Push hard to have in place appropriate support for your Board: a key part of governance is good data and an ability to get behind what you, as a Board, are being told. Your non-executive directors should have the experience required to ask the 'killer' questions.
5. Nurture the Board because its culture will be very important to its success and the success of the organisation at large. Create the conditions in which candid conversation can take place; ensure opportunities for both formal and informal engagement.
6. Know how your Board is performing on a continuous basis and use this to review whether the skills, experience and attitudes you have are the right ones as circumstances change over time. Act on the information that performance evaluation provides.

Conclusion

Every NDPB stands a higher chance of succeeding with a strong and proactive Board in place, and a strong chair leading it. Evidence suggests that fully independent, innovative Boards who work hard to preserve their independence and rely on strong, positive relationships, develop world-class organisations. Their Chairs build and enhance success by continuously evaluating performance – and acting on the results.

With governance and accountability a popular issue, there is a clear opportunity for excellent Boards to demonstrate, and share with others, how they achieve strong governance and support a high-performing Executive. The Chairs of these Boards feel supported and confident about the message they are sending out when the circumstances change around their organisation. Through being both informed and prepared, they quickly gain the respect and confidence of their stakeholders.

Our findings show that, while all NDPBs are granted a Board, the Chair can and should act boldly, proactively and with confidence to take this entity and develop from it a high added-value team.

While the sponsor department will always have a strong interest in the wellbeing of the NDPB, the Chair can and should be encouraged to seize ownership, leading by example in building high-quality relationships, taking responsibility for monitoring the performance of their Board, and ultimately earning the trust to operate successfully with independence.

About the authors

Mark Turner, Lead Partner

Mark is the Lead Partner in GatenbySanderson's National Business Unit, encompassing Central Government departments and their agencies, and the charity and voluntary sector. Formerly Managing Director at Veredus, he has 17 years experience in executive search and selection, specialising in high-profile executive and non-executive appointments for the Public Sector.

Mark has recruited numerous Chairs, Board members and Chief Executives for Government Agencies and NDPBs. This has included the chairs of the Audit Commission, the Serious Organised Crime Agency, the National Policing Improvement Agency and the Independent Police Complaints Commission. He has also appointed Chief Executives for the Crown Prosecution Service, Borders and Immigration Agency and the Appointments Commission amongst many others. His specialism in start-up has led him to appoint whole top teams for a number of agencies with a particular eye on creating effective boards.

In 2006 he co-authored, with Juliet Taylor, a report on the lessons learned from the start up of non-departmental public bodies.

Juliet Taylor, Senior Consultant

A Master's graduate and former Fulbright scholar with published research, Juliet has been working in senior recruitment for four years having joined the industry from Government.

She started her career in media and public relations for a major national charity before joining the Home Office in 2000. She is a former Private Secretary to The Rt Hon John Denham MP and has worked also at the National Audit Office, as part of the team delivering the 2003 review of Capacity to spend increased resources.

Juliet joined GatenbySanderson in July this year after four years with Veredus. She leads delivery on most of our high-profile assignments and is committed to the provision of high-quality search. She also leads the company's strategic research function.

Acknowledgements

Special thanks

We would like to extend our special thanks to the following for their help in the course of our project:

Dr Susan Atkins, Service Complaints Commissioner

Susan Atkins is the Service Complaints Commissioner for the Armed Forces. Over the last year she led a stakeholder Review of the Appointments Commission's work in appointing and building effective boards in the NHS. She has extensive experience of governance and NDPBs, holding a number of CEO roles including the first CEO of the Independent Police Complaints Commission and, as a civil servant, sponsoring Executive and Advisory NDPBs. In the late 1990s she led a programme of fundamental change to the organisation and governance arrangements in the Probation Service. She is a non executive Director of the Quality Assurance Agency and of the Leadership Foundation for Higher Education.

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Michael O'Higgins became Chairman of the Audit Commission in October 2006. For the previous ten years, Michael was a Managing Partner with PA Consulting, leading its Government and IT Consulting Groups, latterly as a member of its International Board. He was previously a partner at Price Waterhouse, worked at the Organisation for Economic Co-operation and Development in Paris and

held academic posts at the University of Bath, the London School of Economics, Harvard University and the Australian National University. He is also currently the Chair of Centrepoint, having been on the Board of Trustees since 2002, became a Trustee of the National Centre for Social Research early in 2007, and a member of the Cabinet Secretary's Capability Review Moderation Panel in May 2007.

Dr Michael Biles, Ombudsman, Housing Ombudsman Service

Dr Biles became the second Housing Ombudsman in July 2001. Before that, he was Head of the School of Law in the Southampton Business School. As well as a BA(Hons) degree in law, he also has a doctorate in law from Southampton University entitled "The arousal and denial of residential tenants' non-financial remedies for disrepair, unfitnes, and lack of amenity in their homes." Mike was called to the bar in 1983 by Middle Temple. He is also a Member of the Chartered Institute of Arbitrators and an Honorary Member of the Chartered Institute of Housing. He has taught and researched Land Law, Landlord and Tenant Law and Housing Law extensively and has published a number of articles, and spoken at numerous conferences. Mike is Visiting Professor of Law in the Southampton Business School.

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Cath Hamp is a career civil servant. She was the Change Programme Manager for the establishment of The Pensions Regulator, its Board and associated governance procedures. Cath also worked with the Pensions Protection Fund in their first year of operation as Head of the Pensions Stewardship Team in DWP. Her current challenge is to establish the Child Maintenance and Enforcement Commission to

both take over the functions of the current Child Support Agency and carry out new functions that will add up to a radically improved child maintenance service."

Juliet Simons, Project Manager, Leeds University Business School Public Chairs Forum



PUBLIC CHAIRS'
FORUM

The Public Chairs Forum

The Public Chairs' Forum (PCF) is a support and learning network for Chairs of NDPBs. It is a membership organisation, led by Leeds University Business School, which provides a unique opportunity for Chairs to learn from one another, share issues of key concern and to debate issues close to their hearts in a confidential environment.

Members meet six times a year to explore issues of relevance to them in their role. Given the distinctive and often isolating role that Chairs of public bodies hold, the PCF aims to help members establish continuous, confidential and strong long-term relationships with one another. PCF members all chair public bodies of significant national importance and have commented on the personal and organisational value they have gained from their membership.

The Forum has the support of both the Commission for Public Appointments and the Cabinet Secretary. For more information, contact at j.l.simons@leeds.ac.uk or by telephone on 0113 3437944.

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We would like to thank the following sincerely for their help during our research:

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Chief Executive, Human Fertilisation and Embryology Authority

Anne Watts,

Chair, Appointments Commission

Baroness Ruth Henig,

Chair, Security Industry Authority

Sir Bernard Herdan,

Executive Director of Service Delivery, Identity and Passport Agency

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Carol Copland,

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Dame Deirdre Hine,

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Chair, The Baring Foundation

Zahida Manzoor,

CBE, Legal Services Commissioner

Zenna Atkins,

Chair, OFSTED

Further reading

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Building Effective Boards, by Lynton Barker, for HM Treasury, 2005

Corporate Governance in Central Government Departments: Code of Good Practice, HM Treasury, July 2005

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