

Strengthening public accountability on the school governing body





The CfPS policy paper series

The Centre for Public Scrutiny was established in January 2003 to help to define, articulate, promote and support a vision of public scrutiny which highlights its value and potential in modern and effective government. This paper is the third in a series of policy discussion papers which we hope will prompt debate and understanding to develop effective public scrutiny across all tiers of government and the public sector.

The views expressed are those of the authors not their organisations.

Acknowledgements

CfPS would like to thank the principal authors of this paper:

- Vivienne Barton, Governor Services Manager, CfBT East Sussex School Improvement Service
- Martin Lawrence, Governor Development Advisor, Northamptonshire CC
- Jane Martin, Executive Director, Centre for Public Scrutiny
- Claudia Wade, Head of Governor Services, Oxfordshire CC

Introduction

The debate about the role and functions of the school governing body has continued to exercise commentators and practitioners over the years. The current debate around the latest White Paper suggests that education policy is at a cross-roads, with considerable implications for the governance and management of schools. This paper proposes that there continues to be confusion over the role of the school governing body which results from the tensions between three key issues:

1. Concern about how to maintain and strengthen local accountability, in particular to parents
2. Anxiety about excessive governing body responsibilities, bureaucracy and workload and the associated demands on headteachers
3. The need to create a more focused and influential model of governance and promote a shared leadership mode in the school

In the following discussion we explore the tensions created by these issues and propose a clarification of the current model of school governance, based on a clear 'executive-scrutiny split', which acknowledges the importance of the non-executive board member in a scrutiny role.

1. Maintaining and strengthening local accountability

Since 1986 the concept of stakeholder representation has been central to the legislative context for the governing body. Whilst this has evolved over time, an enduring principle of the governing body model has been that no one stakeholder group is more important or has more value than any other. Once elected or appointed all governors are regarded as equal members of the corporate body.

Stakeholders have traditionally been defined as parents, teachers, the local authority, religious groups, local businesses and community groups as well as those who represent founders or sponsors. The significance of the school governing body has been the extent to which it creates a forum for discussion and debate about the strategic operations and direction of the school which involves all those with a bona fide interest in the education of children and young people in the locality. The governing body is the custodian in perpetuity of community interests and ensures that developments, improvements and changes proposed by the school are in line with community aspirations and needs.

The size of the governing body can now range from 10 - 22 members with the majority comprising between 14 and 18 governors. An increasing number of these are full or associate members of the governing body representing the larger number of stakeholders involved in extended provision in schools as part of the 'Every Child Matters' policy. As a result, strategic decision-making has become increasingly complex and has to accommodate a number of potentially divergent perspectives with up to 22 people engaged in the debate. The emergence of Children's Centres and full service extended schools could further elaborate the need for stakeholder engagement and with it brings risks of creating overly large governing bodies which may become inefficient and ineffective.

Accountability to parents

Recent legislation has led to changes in the composition of governing bodies so that in most schools parents now comprise the majority of governors. In addition, parents frequently fill other governor categories, for example community and local authority places. As a result parental representation on governing bodies is now higher than it has ever been.

However, despite these changes, parents as a whole are still not aware of the responsibility of governing bodies and therefore see no reason to hold governors to account for things they have done. Even in schools identified as failing, it is exceptional to find the parent community holding the governing body to account in any meaningful way.

Other measures to increase the local democratic legitimacy of schools have largely failed to have the desired impact. Legislation designed to engage parents in local decision-making, requiring parent governor representatives to be elected to the local authority overview & scrutiny committee has not generally made an impact.

The government continues to cite parental involvement as the key to improving schools, and yet the creation and expansion of the Academy programme has the potential to diminish the role of parents in strategic decision-making. Parental representation on the Academy governing body does not have to comply with legislation affecting other governing bodies which requires at least one-third of governor places to be allocated to parents.

Proposals in the White Paper, if adopted, could further reduce parental influence on governing bodies since the majority of parents would be appointed not elected. They would become Trust appointees on the governing body rather than independent representatives of the parent community. The proposed parent councils will act as an advisory body with a much reduced mandate than a board of governors and no formal decision-making powers.

At the same time, however, the new inspection framework requires all schools to demonstrate the quality of their engagement with parents. Ofsted will inspect a school's links with parents and the extent to which they canvass and act on parents' views. Good schools and effective governing bodies already do this. The new statutory duty in the White Paper for governing bodies to have regard to the views of parents merely formalises this practice. Schools where communications with parents are underdeveloped will now have to make a real effort to shape a new more parent-friendly culture. Whilst these developments will be likely to have an impact on how schools engage parents, there remains a serious question about the role of parents in school governance and management.

As part of the original system of delegated management and governance of schools, the Annual Report and Annual Parents Meeting were the key mechanisms for local accountability. In an effort to lighten the bureaucratic workload, however, these have now been replaced by a School Profile document. Local accountability has consequently been potentially weakened at a time when it is becoming more important. Entitlement to integrated and extended provision for children is leading to more complex arrangements for multi-agency delivery, commissioned from a wider range of public, private and voluntary sector providers

and delivered either directly through or via children's centres. Schools will plan to have different provision and, in order for their pupils to have their entitlement realised, will rely on local schools collaborating. These factors make the governing body's accountability for a single school more problematic.

It is clear that local accountability for provision for children in schools is gradually being transformed. A function previously shared between the local education authority and the school governing body, the former delegating power to the latter - including the responsibility to hold the school to account on behalf of the local community - looks increasingly under threat.

2. Responsibilities, bureaucracy and workload

The strategic development of governing bodies since 1988 has not been uniform. Some governing bodies have developed highly effective structures for their work and operate at a largely strategic level. However, many have failed to fully grasp the nature of their role and are undertaking a far more 'hands on' operational function. This is very time consuming and is a distraction from their main strategic function. Successive governments have not helped by incrementally increasing governing body responsibilities over the years and developing a culture of centralised administration which was eventually recognised as creating a significant bureaucratic burden, not least on headteachers. It has become common practice for governing bodies to evaluate their working practices to cope but many still struggle with a severe workload unsuitable for enthusiastic volunteers. It is now generally recognised that an effective governing body which is strategic and provides rigorous 'critical friend' accountability is one which is clear about these key functions and is not deflected into the minutiae of operational issues. In order to achieve this, the argument is increasingly put for more streamlined 'executive' governing bodies populated by members with the skills and experience of strategic governance and management. Whilst the case for such a model is strong in the interests of efficient governance, it is a model which is effectively at odds with a more representative stakeholder model.

3. Creating an influential model and promoting shared leadership

It is generally acknowledged that the school governing body has three key roles:

- to be strategic,
- to act as a critical friend, and
- to hold the school to account.

We would argue that these three roles are all elements of good public scrutiny. The question remains, however, as to how they are put into practice such that the governing body can effect sufficient challenge which drives improvement in provision, whilst at the same time promoting a model of shared leadership for the future direction of the school.

With the requirements of the *New Relationship with Schools* and the creation of Directorates of Children's Services, the role of local authorities is moving from being a provider to that of a strategic leader, with more schools able to take decisions about staffing, assets and admissions. It might be suggested that, as a

result, the role of the governing body will become increasingly strategic, seeking to assure that the community's pupils and parents will receive the best provision and support possible.

The DfES paper "***Governing the School of the Future***" confirms that: "*Governing Bodies are and will be school leaders.*" The current White Paper, "***Higher standards, better schools***", confirms: "*The governing body remains responsible for the strategic leadership of our schools, whether Academy, Trust of Voluntary Aided. We see an enhanced role for governors as schools increasingly become more autonomous.*"

The Labour Party election manifesto in 2005 stated: "*A strong, effective governing body is essential to the success of every school.*" However, the manifesto also called for: "*more flexibility in the structure of governing body, including the ability to have smaller bodies of ten members or less, to streamline management.*"

If governing bodies have a more important strategic role with additional responsibilities for extended school provision, how can we ensure that they have the capacity to govern strategically whilst also maintaining the current arrangements for wide stakeholder representation? Is the current governing body model fit for purpose? Is it the case that what is fundamentally a public scrutiny role is misunderstood in the current confusion about a hybrid model of governance encompassing both executive and non-executive duties?

4. Strengthening scrutiny: the executive-scrutiny split model and the role of the non-executive board member

We would assert that the current tension and confusion between effective stakeholder local accountability, increased workload and responsibilities and lack of strategic influence is a barrier to influential governance. To bring about a more influential model of school governance, and promote shared leadership, there is a need to recognise the distinction between the executive and the non-executive role of governors. Borrowing from recently modernised arrangements in local authorities and building on emerging good practice in devolved and regional assemblies, we would suggest that the current model of school governance would benefit from greater transparency in decision-making and more robust local accountability if it were clarified by a defined 'executive-scrutiny split' and a more clearly defined 'non-executive' brief for members of the school governing body.

The principle of executive-scrutiny split

The principle of having a clear and distinct split between the executive and scrutiny functions is accepted as a pre-requisite for good governance. Most recently introduced in local government as part of the modernised political management arrangements introduced in The Local Government Act 2000, it is acknowledged as a way of introducing maximum transparency and openness into the decision-making process. Ensuring that it is quite clear within a system of governance who is responsible for policy and decision making (and therefore required to be held accountable for those responsibilities) and who is charged with ensuring that decision-makers are held to account. This latter 'scrutiny'

function becomes a key vehicle for public accountability and enhances the legitimate role of elected and appointed public representatives. This principle is clear to see in practice both at Westminster, the devolved assemblies across the UK and in the English regional assemblies. It is also enshrined in the role of the non-executive director on corporate boards.

The non-executive board member

The role of the non-executive board member is to provide a creative contribution to the board of an organisation by providing objective criticism. The 1992 Cadbury Report initiated a debate about the main functions and responsibilities. Today, it is widely accepted that they have an important contribution to make to the proper running of companies.

The Cadbury Report said, they “should bring an independent judgement to bear on issues of strategy, performance and resources, including key appointments and standards of conduct.”

Non-executive board members are usually chosen for their breadth of experience, are of appropriate calibre and have particular personal qualities. Additionally, they may have some specialist knowledge that will help provide the board with valuable insights or key contacts. Of utmost importance is their independence of management. This enables them to bring a degree of objectivity to the board’s deliberations, and play an important part in monitoring executive management.

The Cadbury, Hampel and Higgs reports all stressed that the board should include independent non-executive directors of sufficient calibre and number for their views to carry significant weight in the board’s deliberations. It is recommended that non-executive board members should comprise not less than half the board.

It is acknowledged that the role comprises a number of elements, as follows.

Contribution to the board

Non-executive board members are expected to focus on board matters and not stray into the day-to-day running of the business.

They bring to the board:

- Independence
- Impartiality
- Wide experience
- Special knowledge
- Personal qualities

Personal attributes

These are founded on:

- Integrity and high ethical standards
- Sound judgement
- The ability and willingness to challenge and probe
- Strong interpersonal skills

Key roles and responsibilities

These can be said to include the following:

- Strategic direction
- Monitoring
- Communication
- Audit

Strategic direction

Non-executive board members provide a creative and informed contribution and act as constructive critics in looking at the objectives and plans devised by the chief executive and the executive team.

Monitoring

Non-executive board members should take responsibility for monitoring the performance of executive management, especially with regard to the progress made towards achieving the determined strategy and objectives.

Communication

Non-executive board members can help connect the board with networks of potentially useful people and organisations.

Audit

It is the duty of the whole board to account properly to its shareholders or stakeholders. A non-executive board member, however, has an important part to play in the presentation of any report, ensuring that it is a true and fair reflection of the board's actions and performance, whilst also ensuring that the necessary internal control systems are in place and are being monitored regularly and rigorously.

Induction and training

To be effective, it is recognised that newly appointed non-executive board members quickly need to build their knowledge of the organisation to the point where they can use their skills and experience. In his report of January 2003, Derek Higgs recommended that a comprehensive, formal and tailored induction should always be provided to new non-executive board members to ensure an early contribution to the board. It is also appreciated that refreshing their knowledge and skills will add to their credibility and effectiveness in the boardroom.

A number of observations can be made from the above comparisons:

1. The main duties of school governing bodies and non-executive board members are similar, in terms of strategic influence, monitoring and holding to account. It could be argued that the higher expectations from non-executive board members in terms of suitability, personal attributes, and induction indicate the potential for higher level of performance in their roles.
2. Governing bodies have tended to get too involved with operational issues and the day-to-day running of the school. If governors were more like non-executive board members, they would maintain a lighter touch engagement

with the school and focus only on key strategic issues. They could also focus on monitoring the school's capacity for the growing requirement for best value procurement and maintaining financial probity.

3. Governing bodies are representative of the stakeholders in the local community. Some have vested interests, such as staff and parents. As a non-executive board member, such representatives would be required to ensure their independence of vested interests and bring a greater level of 'informed' objectivity and challenge to executive decisions.

5. Recommendations - a new model for school governance for enhanced public accountability

In the light of the changing context for children's services at the local level and the current proposals for more autonomous schools, as outlined above, concerns have been raised about the lack of local public accountability for education provision. Not only a lack of accountability to parents and families of individual schools, but also, and perhaps more importantly, a lack of accountability to local communities. Given the reduced responsibilities of the elected members of the local authority for the planning and administration of education, this suggests the need to reconsider the direct participation of local councillors as well as other local stakeholders and parents on the school governing body, federations and other local governance forums

We therefore propose a revised model for the school governing body with a clear executive-scrutiny split which reinforces the role of local stakeholders in holding to account or scrutinising those taking executive decisions. We believe that such a model can deliver both more streamlined executive decision-making and also more rigorous public accountability.

The model is premised on the following principles:

- The full governing body is representative of all local stakeholders in the school and maintains current rules for proportionality
- The size of the governing body should be large enough to allow for sufficient representation which should be regarded as an opportunity for all views to be expressed in the model of a 'council' or 'forum'
- A small executive board should be appointed from the full governing body with full delegated powers to direct and manage the school. The executive would include the headteacher and, as appropriate, members of the senior leadership team, who would meet regularly, perhaps monthly, to formulate and implement the strategy for school improvement. This group would take on the executive responsibilities of the governing body, for example: school planning, budgeting and resourcing including staffing. This group could effectively subsume the committee structure as it currently exists
- The main duty of the full governing body will be 'non-executive': to scrutinise decisions and policy of the executive and hold them to account for the proper exercise of the delegated powers accorded to them. Key decisions and policies would be scrutinised by the full governing body before implementation such that the executive ensured the consent of the full

governing body. The 'non-executive' governing body would also have a brief to scrutinise school performance and self-evaluation, including a role in Ofsted inspections. It would ensure links between the governing body and the voice of students through schools council, parents through the parents' council and other community groups as appropriate. In practice this scrutiny body could:

- Link to school self-review (receive reports from subject or key stage reviews)
 - Request reports relating to subjects and key stages if concerns are raised
 - Interrogate the school performance via Panda / FFT and recommend targets to the executive
 - Keep under review the SEF and make recommendation to the executive re: SDP priorities
 - Consult with, and report back to parents / pupils and other stakeholders
 - Publish the school profile
 - Review the budget for value for money
 - Monitor exclusions and absences
- In particular the scrutiny duty could include a new formal power to 'call-in' major decisions before implementation against certain criteria. This would mirror the existing power to 'call-in' in the local authority scrutiny function and would be consistent with initiatives for community 'calls to action' proposed for health and criminal justice
 - One member of the full governing body would be appointed to the role of Chair of Scrutiny to lead the new function. This would be a separate role from the Chair of the Governing Body who would sit on the executive. This proposal mirrors common practice in local authorities where a councillor is usually appointed to such a role. It complements previous 'specialist' governor roles although would be likely to be higher status. It promotes the concept of distributive leadership on the governing body which matches developments in senior leadership teams
 - The full governing body would usually meet once a term to carry out the scrutiny function
 - Where schools operate as a federation, or cluster, each school will have its own executive board (although executives may increasingly work together) but the governing bodies of the federation or cluster would meet as one and may rationalise membership as appropriate

As schools become more autonomous we believe it is important that they develop the appropriate processes to ensure a strategic approach to governance, together with a strengthened accountability or scrutiny function. The model we propose would also allow for local authority appointed governors, who may be local councillors, to make appropriate links on matters of common or otherwise vital concern to the local authority scrutiny committee. This could have the effect of reinforcing appropriate local democratic accountability.

Schools should adopt procedures which allow for the appointment of more independent, skilled and experienced governors, whilst maintaining an adequate

parent voice and stakeholder representation. In the case of community schools, this may be managed within the current structure of local authority, community and sponsor governors. In this way, minimum disruption will be caused to current regulations.

All governors should be expected to undertake induction training in order to effectively fulfil their roles. As part of the statutory duty to train and support governors, local authorities should be focused on providing support to meet the needs of this revised model of governance.

Guidance will be needed to clarify the work of executive groups, the scrutiny function and how the executive-scrutiny split will operate. However, there is nothing within current regulations that would prevent schools from operating this approach and thus any new powers to schools should be enabling, rather than mandatory, in the first instance, promoting the executive-scrutiny split model as best practice.

If you wish to contribute to the debate on the future of school governance or have any other comments on this paper please contact us using the details below.

Centre for Public Scrutiny

Layden House, 76-86 Turnmill Street, London, EC1M 5LG

tel 020 7296 6835 fax 020 7296 6665

email info@cfps.org.uk web www.cfps.org.uk

© Copyright 2006, Published by the Centre for Public Scrutiny
Further electronic versions of this paper are available from our website