Sector Study on Governance of Housing Associations Registered in Wales

Governance literature review

May 2013

CONTENTS

Literature extracts

Appendices

1. INTRODUCTION

1.1 This literature review was commissioned by the Welsh Government as part of a wider review of the governance practice of housing associations registered in Wales. The aim of the literature review was to examine relevant debates about governance in other sectors to identify any lessons for the housing association sector.

1.2 Our literature search turned up over 350 items, including governance codes, good practice guidance, training materials, research studies, think pieces, evidence to inquiries, reports of inquiries, newspaper and journal articles. Between them, they represent current thinking on governance issues that have been debated for 20 or more years - how to be accountable? how to create a more diverse board? a more effective board? - and on the issues that have surfaced more recently - how to avoid groupthink? what is the board's role in managing risk? does IT have a role in improving governance?

1.3 We hope that what we have extracted from the literature review in this short paper will give an overview of current debates (and, in some cases, useful background to current debates) and provide food for thought. We have included a small number of extracts from the literature: some of them because they provide good, clear guidance on governance principles and practice; others because they contain useful ideas or interesting perspectives. The findings of this literature review will provide input to our wider report and recommendations.

2. METHOD

2.1 The review draws on three types of literature:

- literature that defines the characteristics of good governance. This often takes the form of a 'code' or 'code and good practice guidance' aimed at a specific sector;
- literature that reports on reviews of governance or discusses specific governance issues; and
- literature discussing the conceptual issues underpinning governance and different models of governance.

Search method, criteria and scope

2.2 We began our search by cataloguing the recent governance literature with which we were familiar. For the most part this was literature from the corporate, charity, housing and health sectors. We then searched for other relevant literature via the websites of sector regulatory and representative bodies and websites that provide resources for specific sectors. The sectors we researched were:

- corporate
- public services (in general)
- central government
- local government
- charity/voluntary
- housing (England, Scotland, Wales)
- health
- education
- probation.

2.3 In searching for literature relating to reviews of governance, specific aspects of governance and current issues and debates, we:

- undertook web searches using various terms including 'governance', 'board effectiveness', 'boardroom behaviour', 'boards and risk', 'boardroom diversity';
- followed up references in relevant reports; and
- searched relevant newspapers and periodicals.

2.4 We did not intend to extend our search to academic literature but we strayed into that area when looking for evidence of the impact of governance arrangements on organisational performance. Overall, we found that the evidence base for connections between governance variables and organisational performance was weak.

2.5 Nor did we set out to research governance literature internationally. However, as debates and developments in UK governance - in both the corporate and not-for-profit sectors - have often been strongly influenced by debates and developments in the United States, we included some American literature in our search. We also had a brief look at recent European Commission and OECD literature.

2.6 The focus of our search was on recent literature. We aimed to focus particularly on the past couple of years and to exclude anything more than 10 years old. Although, in the event, we did include two or three documents from 2002/03, the great majority of the literature we reviewed was published in 2009 or later.

2.7 The search turned up over 350 items that met our criteria. This was reduced to the list of 210 items that is attached here at Appendix B.

Review method

2.8 We began our review of the literature by identifying - from the various sector specific codes and good practice guidance - the fundamentals of good governance on which all sectors are agreed. Although there is nothing that will be new here to the housing association sector in Wales (which has its own governance charter (143, 144, 145) and comprehensive good practice guide (146)), this broad consensus serves to reinforce the importance of these basics.

2.9 We then sought to identify current governance issues and debates. Although we spent a little time reviewing current definitions of 'governance' and current models of governance, our main focus was on identifying, from across a range of sectors, practical guidance on ways in which boards could increase their effectiveness.

2.10 As noted at para 2.4 above, the evidence base for connections between governance variables and organisational performance is weak. We do, however, have the evidence of our own field work. We have carried out a large number of organisational and governance reviews - mainly across the housing associations and charity sectors - and have seen for ourselves what works well and less well in governance and have seen the impact on the organisation as a whole of good and less good governance. We have brought that experience to bear in identifying lessons from current debates about governance.

2.11 The findings of the literature review are set out in the following sections:

Section 3	The basics of good governance
Section 4	Effective governance
Section 5	Getting the most from the board
Section 6	Getting the right people on board
Section 7	Governance structures
Section 8	Support for good governance
Section 9	Current governance challenges.

3. THE BASICS OF GOOD GOVERNANCE

The convergence of good governance practice

3.1 In the past, the governance of different sectors has been regarded very differently. For-profit companies were seen as being run by hard-headed businessmen with a single-minded focus on the bottom line; public services as being run by remote bureaucrats; charities by benevolent amateurs. Over the past 20 years, however, governance across the different sectors has become more homogeneous.

3.2 Of the many factors that have led to this convergence we would note the transformation in public service culture that began with John Major's 1991 Citizen's Charter and was promoted further by Tony Blair's 1999 Modernising Government white paper. Both programmes focused on delivering public services that were responsive to the needs and preferences of the 'citizens' or 'customers' they served and emphasised the need for organisations to be open, accountable and inclusive. Meanwhile, other initiatives of the late 1980s and early 1990s - Tenants' Choice, 'mixed funding', Compulsory Competitive Tendering - served to introduce market forces into the public sector and, with them, the need for entrepreneurship and a more commercial approach.

3.3 During the same period that not-for-profit organisations were developing a more commercial edge, for-profit companies were coming under pressure from governments and consumers to become more responsive to a wider range of interests and to have greater regard to the impact of their activities. The EFQM Excellence Model, launched with European Commission support in 1991, introduced the concept of 'Society results' - company performance with regard to environmental impact and social commitment - as one of the key criteria of business excellence. In the UK, the Company Law Review, launched in 1998, developed the concept of 'enlightened shareholder value' as the new basis for corporate governance. Enacted in the Companies Act 2006, 'enlightened shareholder value' requires company directors to have regard to a range of considerations - not just short-term profit or share-price growth - including: the interests of the company's employees, customers, suppliers and others; the impact of the company's operations on the community and the environment; and the desirability of the company maintaining a reputation for high standards of business conduct.

The principles and standards of good governance

3.4 With not-for-profit organisations becoming more business-like, and for-profit organisations becoming more responsive to wider interests, there is an increasing amount of common ground between the principles and standards of good governance across all sectors. We describe here three documents, originating in different sectors, that have been influential in shaping current thinking on good governance and which still provide excellent guidance for any organisation aspiring to the highest standards of corporate governance.

3.5 The first - the document from which all sector codes of governance initially took their cue - is the *UK Corporate Governance Code* (1) issued by the Financial Reporting Council for companies listed on the London Stock Exchange. The Code - first issued in 1992 as a series of recommendations known as the Cadbury Report - was a response to a number of corporate collapses and scandals in the late 1980s and early 1990s. Known for many years as the *Combined Code*, it has been updated at regular intervals - substantially in 2010, to reflect lessons learnt from the failures in the banking sector, and again last year.

3.6 We set out in Box 1 below the principles of Sections A to D[1] of the 2012 Code. We have made some small changes to language (such as 'board member' in place of 'director') to reflect the language more commonly used in the housing associations sector and have omitted one of the principles (from Section D, about the need for a performance related element within executive pay). Although aimed at public limited companies, the *UK Corporate Governance Code* establishes sound principles for any board, irrespective of organisational size or sector. The Code also gives guidance on how to implement the principles.

Section A: Leadership

- Every company should be headed by an effective board which is collectively responsible for the long-term success of the company.
- There should be a clear division of responsibilities at the head of the company between the running of the board and the executive responsibility for the running of the company's business. No one individual should have unfettered powers of decision.
- The chair is responsible for leadership of the board and ensuring its effectiveness on all aspects of its role.
- As part of their role as members of a board, board members should constructively challenge and help develop proposals on strategy.

Section B: Effectiveness

- The board and its committees should have the appropriate balance of skills, experience, independence and knowledge of the company to enable them to

[11] The UK Corporate Governance Code also includes a Section E (Relations with shareholders).

discharge their respective duties and responsibilities effectively.

- There should be a formal, rigorous and transparent procedure for the appointment of new board members.
- All board members should be able to allocate sufficient time to the company to discharge their responsibilities effectively.
- All board members should receive induction on joining the board and should regularly update and refresh their skills and knowledge.
- The board should be supplied in a timely manner with information in a form and of a quality appropriate to enable it to discharge its duties.
- The board should undertake a formal and rigorous annual evaluation of its own performance and that of its committees and individual directors.
- All board members should be submitted for re-election at regular intervals, subject to continued satisfactory performance.

Section C: Accountability

- The board should present a fair, balanced and understandable assessment of the company's position and prospects.
- The board is responsible for determining the nature and extent of the significant risks it is willing to take in achieving its strategic objectives. The board should maintain sound risk management and internal control systems.
- The board should establish formal and transparent arrangements for considering how they should apply the corporate reporting, risk management and internal control principles and for maintaining an appropriate relationship with the company's auditors.

Section D: Remuneration

- Levels of remuneration should be sufficient to attract, retain and motivate directors of the quality required to run the company successfully, but a company should avoid paying more than is necessary for this purpose.
- There should be a formal and transparent procedure for developing policy on executive remuneration and for fixing the remuneration packages of individual directors. No director should be involved in deciding his or her own remuneration.

Box 1: UK Corporate Governance Code main principles

Sections A to D, *UK Corporate Governance Code*. FRC, 2012

3.7 Alongside the Cadbury Report, a second initiative of the early 1990s has also had an enduring influence on the development of governance standards: the Nolan principles. The Committee on Standards in Public Life, established in 1994 under the chairmanship of Lord Nolan, was a response to concerns about conduct by holders of public office - the 'cash-for-questions' scandal being the immediate prompt. The first report of the Committee on Standards in Public Life in 1995 established the *Seven Principles of Public Life*. Upholding these principles has become one of the fundamental requirements of any holder of public office and any board member of an organisation delivering public services. Increasingly, their influence is also seen in the standards of conduct expected of private sector leaders.

3.8 The Committee's fourteenth report, *Standards Matter: A review of best practice in promoting good behaviour in public life* (97), published in January this year amends for the first time the definitions of the seven principles. The amendments are not intended to change the meaning but to make it clearer. We set out in Box 2 the amended definitions, which the Committee intends to use henceforth.

- **Selflessness** – Holders of public office should act solely in terms of the public interest.
- **Integrity** – Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- **Objectivity** – Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- **Accountability** – Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- **Openness** – Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- **Honesty** – Holders of public office should be truthful.
- **Leadership** – Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Box 2: *The Seven Principles of Public Life*

Committee of Standards in Public Life, 2013

3.9 Informed both by the Nolan principles and the codification of good governance in the corporate sector, the third document that is now part of the DNA of good governance in the not-for-profit sector is the *Good Governance Standard for Public Services* (75). Published in 2004, and aimed at all organisations working for the public, using public money, the *Good Governance Standard* was the product of an independent commission of public, voluntary and private sector leaders chaired by Sir Alan Langlands who had been Chief Executive of the NHS.

3.10 The Standard reflects the principles of the *UK Corporate Governance Code* but adds further dimensions, defining good governance as requiring:

- focus on the organisation's purpose and its intended outcomes for citizens and service users;
- effective engagement with, and accountability to, a range of stakeholders; and
- boards and individual board members behaving in ways that promote values for the organisation as a whole.

3.11 The *Good Governance Standard* - which is seen to appeal to public sector heart and minds in a way that the *UK Governance Code* does not (76) - has been highly influential in shaping the way good governance is defined across public services. Notably, the Standard has formed the basis for the governance framework for local and police authorities against which they are required to report annually (76, 205). Recently it has been recommended for use by Further Education college governing bodies as the framework within which to review their processes and operations.

3.12 We set out in Box 3 the six core principles and the supporting principles of the *Good Governance Standard for Public Services*. The Standard has not been updated since it was issued in 2004. Nevertheless, at nearly 10 years old, it continues to provide an excellent model of clarity and an inspiration for public sector leaders. The full document includes useful good practice examples and assessment tools.

1. **Good governance means focusing on the organisation's purpose and on outcomes for citizens and service users**

   1.1 Being clear about the organisation's purpose and its intended outcomes for citizens and service users

   1.2 Making sure that users receive a high quality service

   1.3 Making sure that taxpayers receive value for money

2. **Good governance means performing effectively in clearly defined functions and roles**

   2.1 Being clear about the functions of the governing body

   2.2 Being clear about the responsibilities of non-executives and the executive, and making sure that those responsibilities are carried out

2.3 Being clear about relationships between governors and the public

3. Good governance means promoting values for the whole organisation and demonstrating the values of good governance through behaviour

3.1 Putting organisational values into practice

3.2 Individual governors behaving in ways that uphold and exemplify effective governance

4. Good governance means taking informed, transparent decisions and managing risk

4.1 Being rigorous and transparent about how decisions are taken

4.2 Having and using good quality information, advice and support

4.3 Making sure that an effective risk management system is in operation

5. Good governance means developing the capacity and capability of the governing body to be effective

5.1 Making sure that appointed and elected governors have the skills, knowledge and experience they need to perform well

5.2 Developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group

5.3 Striking a balance, in the membership of the governing body, between continuity and renewal

6. Good governance means engaging stakeholders and making accountability real

6.1 Understanding formal and informal accountability relationships

6.2 Taking an active and planned approach to dialogue with and accountability to the public

6.3 Taking an active and planned approach to responsibility to staff

6.4 Engaging effectively with institutional stakeholders

Box 3: G*ood Governance Standard for Public Services*

OPM and CIPFA, 2004

Codes of governance and conduct

3.13 From the mid 1990s, the *UK Corporate Governance Code* has inspired the development of codes/standards/charters of governance and good practice guidance across a range of sectors: specific segments of the private sector (12), the public sector (152, 191, 203) and the not-for-profit sector (104, 106, 109, 133, 136, 138, 143, 148). All define the basics of good governance in similar terms:

- effective structures, clear roles and responsibilities;
- effective board recruitment, renewal and review;

- an appropriate range and balance and updating of skills;
- high quality, timely information;
- effective systems of oversight, control and risk management;
- conduct, probity, integrity, accountability.

3.14 Influenced by - amongst other things - the *Good Governance Standard for Public Services*, more recent codes and revisions of codes for public service organisations have expanded the definition to include:

- putting the citizen/customer/service user at the heart of decision-making;
- ensuring delivery of organisational purpose and outcomes;
- promoting values for the organisation;
- working as a team and as individuals;
- openness and transparency;
- diversity and inclusion;
- sustainability.

3.15 Building on the Nolan principles, and responding to a range of factors - including the obligations imposed on organisations by anti-bribery, data protection and equalities legislation - many public sector organisations now have a code of conduct for board members (80, 108, 134, 157, 158, 207) that sits alongside the code of governance. It is also increasingly common for standards of conduct to be defined for members of all bodies that are part of an organisation's governance structure - bodies such as service user panels or councils of governors.

3.16 In the housing associations sector in England, the 2012 edition of the National Housing Federation's code of conduct for members (134) defines a common standard of conduct for board members, staff and 'involved residents' alike, covering:

- conflicts of interest;
- gifts and hospitality;
- use of organisational funds and resources;
- contact with the media and use of social media;
- confidentiality;
- respect;
- relationship between board member and staff and service users;

- health, safety and security;
- conduct at meetings;
- representing the organisation;
- own learning and developing;
- reporting concerns ('whistle blowing').

3.17 A comparison of corporate governance guidelines and codes of best practice across the Americas, Europe, Asia, Arica and Australia (209) shows a high degree of commonality across territories with regard both to the scope and content of such documents. As an example not too far from home, we set out in Box 4 the principles of the *Netherlands Code for Good Public Governance* (210) which was developed through consultation with citizens as well as practitioners. The Code's associated guidance gives good, plainly worded, advice on what the principles mean in practice. For example:

"Participation [...] demands that the governing body interacts with the public / stakeholders, actually listens to the questions and ideas of those concerned regarding the specific matter, and can account to them for what has been done with those questions and ideas."

1. **Openness and integrity.** The governing body is open and honest, and makes clear what those qualities mean. The governing body conducts itself in such a way as to set a good example, both within the organisation and beyond it.
2. **Participation.** The governing body knows the public's concerns and interests, and makes clear how it is responding.
3. **Appropriate contact with the public.** The governing body ensures that it and the rest of the organisation act in an appropriate manner in their contacts with the public.
4. **Effectiveness and efficiency.** The governing body sets the objectives of the organisation and takes the decisions and measures necessary to achieve those objectives.
5. **Legitimacy.** The governing body takes the decisions and measures that it is empowered to take and that are in accordance with the applicable legislation and regulations. Those decisions can be accounted for.
6. **Capacity for learning and self-improvement.** The governing body improves its performance and that of the organisation, and structures the organisation in a way that ensures this.
7. **Accountability.** The executive body is prepared to give an account of itself to stakeholders, regularly and willingly.

Box 4: *Netherlands Code for Good Public Governance,* 2009

4. EFFECTIVE GOVERNANCE

It's not just about process, structures and standards...

4.1 Following the collapse of major US corporations such as Enron and WorldCom at the turn of the century, attention focused on the companies' boards. What had gone wrong in companies assumed to have been well-run and which, it turned out, had indeed followed most of the accepted standards for board operations? Less than a decade later, the same questions were being asked in the wake of the critical loss and failure across the banking industry worldwide.

4.2 In 2009, Sir David Walker was asked to examine corporate governance in UK banks. He observed (7):

"...the fact that different banks operating in the same geography, in the same financial and market environment and under the same regulatory arrangements generated such massively different outcomes can only be fully explained in terms of differences in the way they were run. Within the regulatory framework that is set, how banks are run is a matter for their boards, that is, of corporate governance."

4.3 The 'Walker Review' reported that board structures were sound, that the *UK Corporate Governance Code* remained fit for purpose (although noting that its provisions required "better observance") and that:

"... principal deficiencies in [financial sector] boards related much more to patterns of behaviour than to organisation."

It noted that:

"...improvement in corporate governance will require behavioural change in an array of closely related areas in which prescribed standards and processes play a necessary but insufficient part. Board conformity with laid down procedures...will not alone provide for better corporate governance overall if the chairman is weak, if the composition and dynamic of the board is inadequate...'

4.4 Reflecting on those earlier business failures in the US (28), Yale Business School Professor Jeffrey Sonnenfeld had come to similar conclusions in 2002. The failed corporations, he noted:

"...passed the tests that would normally be applied to ascertain whether a board of directors was likely to do a good job. And that's precisely what's so scary about these events [...] We need to consider not only how we structure the work of a board but also how we manage the social system a board actually is. We'll be fighting the wrong war if we simply tighten procedural rules for boards and ignore their more pressing need - to be strong, high-functioning work groups whose members trust and challenge one another and engage directly with senior managers on critical issues facing corporations."

4.5 Professor Sonnenfeld noted in particular the need to foster "a culture of open dissent": In describing a "virtuous cycle of respect, trust and candour", he notes:

"Perhaps the most important link in the virtuous cycle is the capacity to challenge one another's assumptions and beliefs. Respect and trust do not imply endless affability or absence of disagreement. Rather, they imply bonds among board members that are strong enough to withstand clashing viewpoints and challenging questions.

I'm always amazed at how common groupthink is in corporate boardrooms. Directors are, almost without exception, intelligent, accomplished, and comfortable with power. But if you put them into a group that discourages dissent, they nearly always start to conform. The ones that don't often self-select out. [...]

The CEO, the chairman, the lead director, and the board in general need to demonstrate through their actions that they understand the difference between dissent and disloyalty. This distinction cannot be legislated through nominating committee rules and guidelines for director résumés; it has to be something that leaders believe in and model..."

4.6 In the wake of the later catastrophic failures in the financial sector, the Walker Review makes the same observation:

"The most critical need is for an environment in which effective challenge of the executive is expected and achieved in the boardroom before decisions are taken on major risk and strategic issues."

4.7 In a different sector, the connection between board challenge and organisational performance was noted by Ofsted in its 2012 research (197) into how successful colleges had raised standards or sustained high performance. It reported:

"The governors of good and outstanding colleges were well-informed, received the right information and could challenge managers vigorously on the college's performance. Problems occurred when governors did not know what questions to ask or when relationships with senior leaders were too close."

Also reflecting on college governance in 2012 (187), the Learning & Skills Improvement Service noted:

"Frequently governors are unwilling, or lack the confidence and skills, to challenge, especially if the chair is very close to the principal [...] They can be over-reliant on management assurances, without drilling down effectively."

4.8 Advisors on governance in the health sector (185), echo Sonnenfeld in identifying constructive challenge and trust as "essential habits" of highly performing boards. They also observe:

"From our work with NHS boards, two things are particularly evident about constructive challenge and trust. Firstly, they rarely happen by chance. Indeed, trust and challenge are almost always absent in boards where they are not discussed. Therefore, they must be openly talked about, actively nurtured and deliberately protected if they are to take root and underpin higher levels of board performance. Secondly, they are both asymmetrical. That is, they take quite some time to become part of board life, but can be lost or damaged in an instant."

Effective boardroom behaviour

4.9 Effective boardroom behaviour is not only, of course, about constructive challenge and trust. As input to the Walker Review, the Institute of Chartered Secretaries and Administrators (ICSA) consulted a range of governance experts and its own members (15) - many of whom are company secretaries of public limited companies - on "appropriate boardroom behaviours". We set out in Box 5 below a summary of the findings.

Best practice boardroom behaviour may be characterised by:

- a clear understanding of the role of the board;
- the appropriate deployment of knowledge, skills, experience, and judgment;
- independent thinking;
- the questioning of assumptions and established orthodoxy;
- challenge which is constructive, confident, principled and proportionate;
- rigorous debate;
- a supportive decision-making environment;
- a common vision; and
- the achievement of closure on individual items of board business.

The degree to which these behaviours can be delivered is shaped by a number of key factors:

- the character and personality of the directors and the dynamics of their interactions;
- the balance in the relationship between the key players, especially the chair and the CEO, the CEO and the board as a whole, and between executive and non-executive directors;
- the environment within which board meetings take place; and
- the culture of the boardroom and, more widely, of the company.

Box 5: Boardroom behaviour

From *Boardroom Behaviours*, ICSA, 2009

4.10 Other industry and governance experts giving evidence to the Walker Review, and to subsequent Parliamentary enquiries into aspects of the banking crisis, also stressed the importance of boardroom behaviour. In response to a question about board structures, witnesses to the 2012 Treasury Select Committee inquiry into corporate governance and remuneration (10) noted:

"Boards are groups of individuals. The structures within which they operate matter less than the way those individuals interact with each other [...] All board structures require directors to act effectively, carry out their duties with diligence and avoid the risks of groupthink. We favour a focus on these behavioural aspects rather than the structural issues..."

"The essential factors are behaviours, style and tone in the boardroom; ensuring that the board is comprised of suitably experienced individuals; creating a culture where challenge is both expected and welcomed and ensuring that the board receives the right information at the right time. The overall quality and effectiveness of corporate governance is much more dependent on behavioural issues and style rather than process and structure."

"...while the design and operation of board structures are important, behaviours - including values, style and tone - are more instrumental to board effectiveness."

4.11 The ICSA report to the Walker Review concluded that:

"...appropriate boardroom behaviours are an essential component of best practice in corporate governance."

and called for guidance to be issued on appropriate boardroom behaviour.

4.12 Accordingly, the Financial Reporting Council issued *Guidance on Board Effectiveness* in 2011 (14). Introducing the new guidance, FRC Chairman Baroness Hogg noted:

"The UK Corporate Governance Code has evolved since it was first introduced in 1992. It has always placed great importance on clarity of roles and responsibilities, and on accountability and transparency. It has become increasingly clear in the intervening period that, while these are necessary for good governance, they are not sufficient on their own. Boards need to think deeply about the way in which they carry out their role and the behaviours that they display, not just about the structures and processes that they put in place."

4.13 We set out in Box 6 below the FRC's 2011 description of 'an effective board'. We note how the description - aimed at publicly listed companies - incorporates some of the characteristics of good governance that were first identified by the 2004 *Good Governance Standard for Public Services.*

An effective board develops and promotes its collective vision of the company's purpose, its culture, its values and the behaviours it wishes to promote in conducting its business. In particular it:

- provides direction for management;
- demonstrates ethical leadership, displaying - and promoting throughout the company - behaviours consistent with the culture and values it has defined for the organisation;
- creates a performance culture that drives value creation without exposing the company to excessive risk of value destruction;
- makes well-informed and high-quality decision based on a clear line of sight into the business;
- creates the right framework for helping directors meet their statutory duties under the Companies Act 2006, and/or other relevant statutory and regulatory regimes;
- is accountable, particularly to those that provide the company's capital; and
- thinks carefully about its governance arrangements and embraces evaluation of their effectiveness.

An effective board should not necessarily be a comfortable place. Challenge, as well as teamwork, is an essential feature. Diversity in board composition is an important driver of a board's effectiveness, creating a breadth of perspective among directors, and breaking down a tendency towards 'group think'.

Box 6: Characteristics of an effective board

From *Guidance on Board Effectiveness*, FRC, 2011

5. GETTING THE MOST FROM THE BOARD

The role of the board

5.1 It is well established, both in research and guidance (1, 7, 14, 19, 90, 92, 160, 169), that the board has the dual role of directing and controlling the organisation. As the FRC's *Guidance on Board Effectiveness* puts it:

"The board's role is to provide entrepreneurial leadership of the company within a framework of prudent and effective controls and which enables risk to be assessed and managed."

or, as described by an NHS chair (160):

"The board's role is to articulate the ambition for the organisation and to manage the risk that that ambition contains."

5.2 While the controlling (or 'supervisory') role of the board is defined fairly consistently across different sectors, the directing (or 'leadership') role, is defined variously, reflecting the particular functions that the sector, or organisation, seeks to emphasise. In the NHS sector, for example, the effective board is described (160) as having three roles:

- ensuring accountability;
- formulating strategy for the organisation; and
- shaping a positive culture for the board and the organisation.

The first of these is the supervisory role; the second and third are aspects of what in another sector might be defined more broadly as providing leadership or sometimes (69) 'stewardship'.

An aside: stewardship

5.3 We would note here that 'stewardship' is a concept much discussed in recent years in the context of corporate governance and is a word that has various meanings and uses. 'Stewardship' is used in a general way to refer to ensuring the long-term success of a company. More specifically, it is used to refer to the role and responsibilities in this regard of a company's investors. The *UK Stewardship Code* (4), published last year by the Financial Reporting Council and aimed primarily at institutional investors, notes:

"Stewardship aims to promote the long term success of companies in such a way that the ultimate providers of capital also prosper [...]

In publicly listed companies responsibility for stewardship is shared. The primary responsibility rests with the board of the company, which oversees the actions of its management. Investors in the company also play an important role in holding the board to account for the fulfilment of its responsibilities."

5.4 The *UK Stewardship Code* is part of the corporate sector's response to the failures of the financial sector. Introduced as a complement to the *UK Corporate Governance Code*, it seeks to increase the level of engagement by investors, and encourage dialogue between investors and companies on matters such as strategy, performance, risk, governance and culture. The Stewardship Code does not have the same direct relevance to the not-for-profit sector as the Governance Code.

The three modes of governance

5.5 New thinking about the role of the board in the not-for-profit sector has emerged from the United States in recent years and has aroused interest (90). Sometimes referred to as "governance as leadership" (the title of the book in which it was first described), it defines three modes in which the board of a not-for-profit organisation should be effective:

- fiduciary - ensuring that the organisation is well run, financially sound, compliant with relevant laws and regulations, faithful to its mission;
- strategic - setting the organisation's priorities and course, deploying resources accordingly, monitoring delivery, developing and reviewing various strategies;
- generative - engaging in deeper enquiry, exploring root causes, probing assumptions and generating new ideas and courses of action.

5.6 The main contribution to governance thinking of this approach is its emphasis on 'generative thinking' or 'generative governance'. In contrast to the strategic mode, the generative mode involves looking outside the usual framework, getting at the heart of the organisation's mission and purpose, probing assumptions and asking a different set of questions. One example given by the authors of *Governance as Leadership* relates to policing in big cities (91). The old paradigm was that the exclusive job of the policeman was to get to the scene of the crime and apprehend the perpetrator - and the more crime you had, the more police you needed. A different mindset however suggested that the policeman's job was not just intervening at the scene of a crime but also helping residents create conditions of safety in their communities to start with. "Good governance," say the authors, "is not just about doing work better; it's about ensuring your organisation does better work".

5.7 We set out in Box 7 below some of the "catalytic questions" suggested by *Governance as Leadership* to encourage boards' generative thinking.

- On what list, which you could create, would you like the organisation to rank at the top?
- What will be most strikingly different about the organisation in five years?
- What do you hope will be more strikingly different about the organisation in five years?
- Five years from today, what will the organisation's key stakeholders consider the most important legacy of the current board?
- How would we respond if a donor offered a £10m endowment to the one organisation in our field that had the best idea for becoming a more valuable public asset?
- How would we look as a take-over target by a potential or actual competitor?
- If we could successfully take over another organisation, which one would we choose and why?

- What has a competitor done successfully that we would not choose to do as a matter of principle?
- What have we done that a competitor might not do as a matter of principle?
- What headline would we most/least like to see about the organisation?
- What is the biggest gap between what the organisation claims it is and what it actually is?

Box 7: Examples of catalytic questions for board members

From *Governance as Leadership*, Chait et al, 2005

5.8 It is argued (90, 91) that when boards work effectively across all three modes, there are significant benefits both for board members and the organisation. Specifically, that generative governance:

- empowers the board to do meaningful work - focusing on the most important matters for the organisation;
- engages the 'collective mind' - placing a greater premium on a plurality of perspectives;
- enriches the board's work - presenting an intellectually attractive agenda and engaging different ways of thinking: playful and inventive as well as logical and linear;
- enhances the board's value - enabling the organisation to move forward on complex problems that defy a 'right' answer or 'perfect' solution.

In sum, the board has a better job, more interesting work and a more influential role; the board becomes more of an asset to the organisation, adding value and competitive advantage.

5.9 Of course, many boards do engage in this sort of generative thinking, although often limited to a couple of sessions during an annual board awayday. What is suggested by this approach is simply doing more of it and doing it more effectively - embedding it in the way in which the board works by:

- carving out more time for generative thinking, both within individual board meetings - although some commentators note the difficulty of boards switching modes within a meeting (65) - and across the board's annual work programme;
- adopting techniques to develop generative thinking; and
- providing opportunities for boards to engage in the kind of activities that can help board members to frame issues differently - such as direct

contact with staff, service users and other stakeholders and meetings with other boards.

Using a wider set of tools

5.10 A 2009 research study by the University of Warwick on behalf of the Learning & Skills Improvement Service (190) sought to explore the extent and value of what was termed 'creative governance' in the further education sector. It found that whilst college governors had a positive interest in the idea of creative governance:

"There is a recognition and expectation among governors that imaginative and creative thinking comes from the principal and senior staff. Their proposals are then tested out to a greater or lesser extent by governors."

and that

"The impact of an audit culture is believed to dominate governance to such an extent that it limits or acts as a barrier to more creative discussion and debate."

College governors considered that the creative element of governance occurred outside the context of formal board meetings: mixing with students, professionals, community and employers 'on the ground' and activities involving college working groups

5.11 The desirability of boards drawing on a wider set of tools beyond the board meeting is also being discussed in the corporate sector. One governance expert giving evidence to the Treasury Select Committee's 2012 corporate governance and remuneration inquiry (70) writes:

"From the confines of the boardroom, the director cannot hope to gain a firm grasp on the culture of a business, the calibre of its management or the opportunities and threats it is facing. And yet most boards seek to fulfil their role principally through attending a series of board meetings (notwithstanding the occasional away day and office or branch tour). We would advocate the board draw on a wider set of tools beyond the board meeting and re-weight the time directors spend in board meetings vs the time spent in the business (perhaps by work-shadowing), speaking to external stakeholders and participating in more board away days."

5.12 Board members will often bring to their role assumptions about what a board is for and how it is supposed to work (160). It is important that boards surface and debate the assumptions that board members carry with them, and that the board determines - within the framework of its constitution - how it will work, the activities it will engage in and how it will allocate its time to add most value for the organisation.

Good decision-making

5.13 Whatever balance a board strikes between its various roles and modes of operating, well-informed and high-quality decision-making is a critical requirement and it does not happen by accident (14). The *FRC's Guidance on Board Effectiveness* notes:

> "Flawed decisions can be made with the best of intentions, with competent individuals believing passionately that they are making a sound judgment, when they are not. Many of the factors which lead to poor decision making are predictable and preventable. Boards can minimise the risk of poor decisions by investing time in the design of their decision-making policies and processes, including the contribution of committees."

5.14 We set out in Box 8 below the FRC's 2011 guidance on good decision-making which emphasises the wide range of factors that comes into play in decision-making. We return to some of the factors when considering support for good governance, in Section 8 below.

Good decision-making capability can be facilitated by:

- high-quality board documentation;
- obtaining expert opinions when necessary;
- allowing time for debate and challenge, especially for complex, contentious or business critical issues;
- achieving timely closure; and
- providing clarity on the actions required, and timescales and responsibilities.

Boards should be aware of factors which can limit effective decision making, e.g.:

- a dominant personality or group of directors on the board, which can inhibit contribution from other directors;
- insufficient attention to risk, and treating risk as a compliance issue rather than as part of the decision-making process, especially in cases where the level of risk involved in a project could endanger the stability and sustainability of the business itself;
- failure to recognise the value implications of running the business on the basis of self interest and other poor ethical standards;
- a reluctance to involve non-executive directors, or of matters being brought to the board for sign-off rather than debate;
- complacent or intransigent attitudes;
- a weak organisational culture; or
- inadequate information or analysis.

Box 8: Guidance on good decision-making

From *Guidance on Board Effectiveness*, FRC 2011

Risk management

5.15 Decision-making always involves risk and, alongside corporate culture and boardroom behaviour, the approaches that the board takes to identifying and managing risk has been one of the most hotly debated governance issues in the wake of the 2008 financial crisis. Debates have covered (5):

- the board's responsibilities with regard to risk (which are seen to include: determining the organisation's approach to risk, shaping organisational culture, identifying risk, overseeing the management of risk and crisis management);
- governance structures for handling risk: does the board need a risk committee? where is the dividing line between the roles and responsibilities of the audit committee and the board?
- how much information is required by the board to perform its role with regard to risk? when should particular risk be brought to the board's attention?
- the need for the board to agree its appetite or tolerance for risk, understand the company's exposure to risk and how this might change as a result of changes to strategy or the operating environment;
- the need to consider not just key individual risks ('net risk') but the organisation's overall potential exposure to risk ('gross risk'); and
- the growing importance of reputational risk.

5.16 It is widely agreed that good corporate culture is fundamental to good risk management and that it is for the board to set the tone at the top. It is also agreed that clear roles and lines of accountability through the organisation are vital and that the board must retain strategic responsibility for risk decision-taking.

6. GETTING THE RIGHT PEOPLE ON BOARD

The effective board member

6.1 On the day that we began writing this paper, our attention was caught by an article in the *Financial Times* (54). It began:

"Non-executive director: a task for which no one is qualified.

The list of attributes required of a non-executive director is so long, precise and contradictory that there cannot be a single board member in the world who fully fits the bill.

They need to be: supportive, intelligent, interesting, well-rounded and mature, funny, entrepreneurial, steady, objective yet passionate, independent, curious, challenging, and more. They also need to have a financial background and real business experience, a strong moral compass, and be first class all-rounders with specific industry skills."

6.2 Other research and commentary also notes how much more demanding the role has become. A 2012 research study by the Korn/Ferry Institute (71) sought to identify the characteristics of exceptional non-executive directors and to compare the results with those of its study seven years earlier. The report identifies:

- core characteristics - those that have remained constant over time;
- characteristics growing in significance; and
- new characteristics.

During the course of the research, executives and board members were also asked what they thought made a non-executive director ineffective. The results are summarised in Box 9 below.

Core characteristics:

- Independence, courage and integrity
- Challenging but supportive - able to probe and challenge the executive team on thorny subjects without creating conflict
- Thoughtful communication - able to articulate complex ideas clearly, knowing when to contribute a thought and when to keep quiet
- Breadth of experience

Characteristics growing in significance:

- A deep understanding of the business
- Time commitment - attending board meetings is now just the foundation
- Open to personal feedback - constantly seeking to improve both their individual contribution and the overall effectiveness of the board

New characteristics:

- Risk - well versed in identifying and managing all forms of risk: operational, financial or reputational
- Financial expertise
- Technology - aware of the profound impact technology is having across all sectors

Undesirable traits:

- Big egos - members who join to further a personal agenda, enhance their political currency or who are motivated by status
- Confrontational personalities - individuals who are challenging for the sake of it, or who believe this is what is expected of them
- Shallow comprehension - not making the effort to understand the business
- Disrespect for boundaries - failing to understand the distinctions between the role of the non-executive director and the executive team.

Box 9: Board member characteristics

The Korn/Ferry Institute, 2012

6.3 The research also asked what organisations could do to increase board member effectiveness. The results highlighted the importance of:

- methodical induction and proper training programmes - with one-to-one mentoring standing out as a particularly valuable training method for new board members;
- providing the necessary administrative support - particularly with regard to the quality and timeliness of board documents (we return to this in Section 8 below);
- an annual review of board performance - the research found that, despite earlier scepticism, there is now a broad consensus that a board review is a valuable tool in enhancing effectiveness;
- personal feedback to board members, gathered through an independently facilitated review; and
- the quality of the chair.

The critical importance of the chair

6.4 It is hard to overstate the importance to board effectiveness of the quality of the chair - or the extent to which that is recognised across all sectors. In discussing the *UK Corporate Governance Code* in an interview last year (72), the chairman of the Financial Reporting Council, said:

"No matter how effective a Code may be, there is no substitute for the quality of the Chairman"

6.5 The role of the chair, as defined in the FRC's *Guidance on Board Effectiveness* and set out in Box 10 below, is dauntingly long. Although defined with the chair of a public limited company in mind, there is little here that does not apply to any board chair in any sector (we would identify only the reference to the 'senior independent director' which is not a role that exists in all boards).

- Demonstrating ethical leadership
- Setting a board agenda which is primarily focused on strategy, performance, value creation and accountability, and ensuring that issues relevant to these areas are reserved for board decision
- Ensuring a timely flow of high-quality supporting information
- Making certain that the board determines the nature, and extent, of the significant risks the company is willing to embrace in the implementation of its strategy, and that there are no 'no go' areas which prevent directors from operating effective oversight in this area
- Regularly considering succession planning and the composition of the board
- Making certain that the board has effective decision-making processes and applies sufficient challenge to major proposals
- Ensuring the board's committees are properly structured with appropriate terms of reference
- Encouraging all board members to engage in board and committee meetings by drawing on their skills, experience, knowledge and, where appropriate, independence
- Fostering relationships founded on mutual respect and open communication – both in and outside the boardroom – between the non-executive directors and the executive team;
- Developing productive working relationships with all executive directors, and the CEO in particular, providing support and advice while respecting executive responsibility
- Consulting the senior independent director on board matters in accordance with the Code
- Taking the lead on issues of director development, including through induction programmes for new directors and regular reviews with all directors
- Acting on the results of board evaluation
- Being aware of, and responding to, his or her own development needs, including people and other skills, especially when taking on the role for the first time
- Ensuring effective communication with shareholders and other stakeholders and, in particular, that all directors are made aware of the views of those who provide the company's capital.

Box 10: The role of the chair

from *Guidance on Board Effectiveness* , FRC 2011

Diversity in board composition

6.6 As noted in Box 6 above, diversity in board composition is now recognised as an important driver of a board's effectiveness:

"...creating a breadth of perspectives among directors, and breaking down a tendency towards 'group think'."

6.7 Despite this recognition, the low proportion of women in the boardrooms of public limited companies continues to give the UK Government cause for concern. Figures published at the time of writing (April 2013) (62) show that despite pressure for change from various quarters, the proportion of women directors in FTSE 250 companies is still only 13.2%. Of particular concern to the Business Secretary when the figures emerged was the 27% of FTSE 250 companies being run by all-male boards - despite research (55, 56) showing a positive correlation between women on boards and financial performance.

6.8 Although board appointments in the public sector are generally more diverse than in the private sector, it is recognised that progress continues to be slow and that there continue to be barriers to achieving board diversity. In his most recent report (81), the Commissioner for Public Appointments comments:

"In 2011/12, just under 34% of appointments to public bodies were women, a proportion that has hardly changed over a decade and is substantially worse than the 39% achieved in 2001/2 and 2002/3. These are, of course, figures that would be remarkable if they were achieved in the private sector. But I suggest that in public bodies, which exist to serve the public and are funded by the taxpayer, they are not good enough."

6.9 The picture is even worse on other measures of diversity in public appointments: in 2011/12 only 1.4% of public appointments and reappointments were to members of ethnic minorities and 1.5% to people with a disability (81). Not only does this compare unfavourably with the profile of the UK's overall population (approximately 12% are from BME groups and 20% have a disability) but also with statistics from a decade ago (when 2.9% of appointments and reappointments were from BME groups and 2.2% had a disability).

6.10 The *Public Appointments Diversity Strategy* (82) published earlier this year notes that barriers that discourage or prevent some groups from applying for public appointments include:

- inadequate advertising that has no outreach;
- inadequate search;

- job and person specifications that do not reflect broader competencies, transferable skills, and relevant experiences with a view to attracting people from a range of different backgrounds;
- a lack of organisational knowledge about the benefits of strong and diverse fields; and
- negative experience of, or perception of, the appointments process by potential applicants.

6.11 Other barriers to greater boardroom diversity are seen to include (58, 59):

- slow turnover on boards;
- the trend, in certain sectors, towards a reduction in overall board size;
- the problem of "credentialism" - a fixation on appointing candidates with prior senior management or board experience;
- the competing pressures for adding expertise, such as financial risk management. As one study notes: "When these needs feel particularly acute, urgency can supersede other interests, including diversity" (58).

6.12 The last of these touches on what can be a thorny issue: how far does the desire for a diverse board and one that includes service users and/or stakeholder representatives supersede the need for specific technical or professional expertise and/or other skills and qualities that create effective boards? The findings of our field work are that it need not be "either/or" - that organisations that insist on diversity and board level service user representation *and* aspire to the highest standards of governance will find ways to achieve it. It may well, however, require:

- making and abiding by difficult decisions - for example, setting maximum terms of tenure for board members or introducing an assessment stage into the process for electing service users or stakeholder representatives onto the board;
- time and effort - reaching out to a wide range of groups and organisations, knocking on doors/attending service user meetings to drum up interest, running workshops for interested service users, keeping a constant watch for service users/stakeholders with the right characteristics; and probably
- expense - advertising, leafleting, engaging a search partner, investing in development activities for prospective board members

Does pay increase board effectiveness?

6.13 Board members in the private sector are paid to be board members, as are boards members of government bodies, as are board members of NHS and other public sector trusts. In the housing associations sector in England, associations have had the option of paying their board members since 2003 and almost all of the large housing groups and associations have taken up the option (141). In the housing associations sector in Scotland, associations have had the option of paying board members since April last year and we know that at least one Scottish association is giving the matter consideration. In the charity sector, a 2012 survey of the 500 largest charities, measured by income, (111) found that 24% paid at least some of their trustees.

6.14 In introducing the new regulatory governance standards which came into effect from April last year (148), the Scottish Housing Regulator emphasised the importance of the role and composition of the board:

> "The people on the governing body, and the skills and knowledge they collectively have, are the most significant contributors to the good governance of the RSL. Poor governance presents a corporate risk to an RSL. Therefore each RSL needs to be confident that it has the appropriate mix of experience and objectivity on its governing body which best enables it to give effective strategic direction and deliver good tenant outcomes."

It was in this context that the SHR gave associations the freedom to decide for themselves whether or not to introduce pay for board members - noting, however, that if they chose to do so they must:

> "...take account of independent guidance and good practice in setting payment amounts and linking payments to specified duties. There must also be a clear process for assessing performance in carrying out these duties."

Payment for housing association board members in England was introduced with a similar rationale and on a similar basis.

6.15 The experience of housing associations in England (135) has been that the introduction of board payment can help the organisation to strengthen its governance capacity by:

- attracting and retaining high calibre board members, including an ability to compete for 'talent' with other public bodies and attract a more diverse field of candidates; and
- establishing board membership on a more 'professional' basis, involving:
    - increased clarity of roles of responsibilities;
    - robust performance assessment;
    - ongoing board member learning and development;
    - increased commitment and accountability; and
    - increased leverage for addressing performance issues.

6.16 The National Housing Federation issues guidance to its members on board pay (139), including publishing indicative levels of pay for office holders (board chair, vice-chair, committee chairs) and ordinary board members. It also undertakes surveys from time to time on the extent to which the sector is paying its board members, the amounts paid and the perceived benefits. Its most recent survey (141), published in January this year, found that of the 106 survey respondents that pay their board members:

- 69% considered that payment had led to increased success in board recruitment;
- 55% considered that payment had increased board performance; and
- 60% that payment had increased individual board member commitment.

We would note that surveyed associations were not asked how they evaluated improvement in any of the three areas, although some offered comments. We would also note that, as these associations would have made a business case for introducing board pay, there is likely to be a bias towards reporting a positive outcome. Our own extensive experience of helping housing organisations to recruit board members, however, is that where an organisation pays board members, both the number of applications and the calibre of applicants increases significantly.

6.17 The most recent figures on the extent of board member payment across the housing association sector in England are now quite old (2008). They suggest that it is only amongst the larger housing groups and associations that board member payment is common (and, from our field work, we would suggest that that remains the case). Of the 218 organisations that responded to the NHF's 2008 survey, 36% were paying some or all of the members of their governing body. The proportion of associations with paid board members increased with the size and complexity of the organisation: 70% of those with a turnover of between £50m and £100m had paid board members as had 94% of associations with a turnover in excess of £100m.

6.18 Arguments that are made against payment for housing association boards include:

- damage to perceptions among residents and other stakeholders including local authorities and care/support commissioners;
- harder to demonstrate not-for-profit status;
- attracting members who join “for the wrong reasons” and are not committed to the organisation;
- affordability; and

- difficulties and disincentives for those in receipt of benefits, and the likelihood that this will affect residents more than other board members - although it has been noted that payment has also served to attract to the board tenants in low paid employment.

6.19 A further consideration has arisen recently (142) in view of the development across the housing sector in England of formally constituted tenant panels that undertake substantial work programmes, including scrutinising performance, reviewing policies and allocating budgets. With members of tenant panels putting in as many hours - and perceived to be delivering as much value for the organisation - as board members, the question can arise as to why tenants who are members of the board are paid while tenants who are members of panels are not. At least one association pays members of its tenant scrutiny panel as well as its board members.

7. GOVERNANCE STRUCTURES

Does board structure matter?

7.1 Board structures vary between sectors and between countries. In the UK, the most common structure within private sector governance is the unitary board, comprising both non-executives and executives. Of the non-executive members of a unitary board, some would be considered as 'independent' and others – such as those who represent a significant shareholder or have a business relationship with the company – would not. A principle of the *UK Corporate Governance Code* is that:

"The board should include an appropriate combination of executive and non-executive directors (and, in particular, independent non-executive directors) such that no individual or small group of individuals can dominate the board's decision taking"

More specifically, its provisions require that the chair be an independent non-executive and that:

"Except for smaller companies, at least half the board, excluding the chairman, should comprise non-executive directors determined by the board to be independent."

7.2 The unitary board is also the model adopted by NHS trusts, with boards comprising roughly equal numbers of executive and non-executive members. The *NHS Foundation Trust Code of Governance* (152) follows closely the provisions of the *UK Corporate Governance Code*, requiring that the chair be a non-executive member and that non-executives be in the majority.

7.3 The wholly non-executive board has been the governance structure of charities and housing associations in the UK and is a structure commonly found elsewhere in the world, in private companies as well as in the charity sector.

7.4 It has been argued for some time, however, that housing associations are now operating in an environment similar to that of private companies where it is usual in the UK to have executive directors on the board. Previous restrictions have been relaxed and it is now common amongst the largest housing associations in England to have members of the management team on the board (135). For the most part, this is limited to the Chief Executive or to the Chief Executive and Finance Director but some associations have gone further. Places for People has for some years now been governed by a board which comprises all members of the group's executive management team alongside non-executive directors, with non-executives just in the majority. More recently (2010), the Gentoo Group has introduced what it describes as a ‘unitary board’ comprising five independent board members, one tenant board member, one council board member and three members of the executive management team. Some of the largest housing groups in England, however, including the Guinness Partnership, retain a wholly non-executive board.

7.5 Whether board structure matters was a question asked by the Treasury Select Committee's 2012 inquiry into corporate governance and remuneration. In the wake of the banking crisis, the inquiry asked, should the corporate sector be considering alternatives to the unitary board structure? As we note above, those giving evidence to the inquiry (10) reported that other factors - board member skills, time commitment and boardroom culture - contributed more to governance effectiveness than structure. Witnesses noted:

> "No single board structure was resistant to the financial crisis, with unitary, two-tier and alternative board structures all having the potential to fail."

> "Banks failed across the globe and there is no evidence that any one board structure was more complicit than any other in this respect."

7.6 Most witnesses favoured the retention of the unitary board structure, noting:

> "It is a core principle that directors are collectively and individually responsible for the decisions, actions and omissions of the board. This is a key attribute of the unitary board which enshrines collegiality while respecting, indeed making a virtue of, diversity of role, expertise and qualities of independence."

> "A unitary board can engage more effectively with executive management in providing direction and leadership, and there is better information flow between the supervisory and managerial bodies."

"Unitary boards face the risk that there can be excessive cosiness between the non-executive and executive directors but they have the advantage that non-executive directors can have more direct access and insight into the business."

7.7 Witnesses critical of the unitary board structure, or of some of its features, focused particularly on the dangers of 'cosiness' and blurring of roles:

"Boards can often fail to adequately review the plans and polices of management in the interest of both 'not rocking the boat' and avoiding the inevitable personal discomfort of a board where the management feel persecuted or not properly valued. Unless there is immediate pressure to act for some reason it is easier for non-executives to suppress doubts than to express them."

"The board seeks to supervise the executive who number among them. As such, the non-executives are supervising their peers. In most other walks of life (and for good reason), supervision is embedded within a clear hierarchy to empower the supervisor."

7.8 As illustrated in para 7.6 above, one of the arguments usually advanced in favour of executives on the board is that all board members have equal responsibility in law for the success of the organisation. We would note, however, that under most understandings of company law a chief executive would in any event be considered as a company director. We would also note, although from our field work rather than a review of literature, that there can be excessive cosiness between a board and chief executive even where the chief executive is not a member of the board and, conversely, that a difference in legal status between a board and executives need be no barrier to good information flow, appropriate challenge and effective decision making.

Does board size matter?

7.9 The *UK Corporate Governance Code* suggests that the board:

"...should be of sufficient size that the requirements of the business can be met and that changes to the board's composition and that of its committees can be managed without undue disruption, and should not be so large as to be unwieldy."

Corporate guidance developed in the wake of the 2008 financial crisis suggests that an 'ideal' size is between 10 to 12 board members (7). NHS regulations state that membership of NHS trust boards may range from 8 to 11 and Primary Care trust boards may have up to 14 members . The size of an NHS foundation trust board is defined by its constitution, with foundation trust guidance (152) following the *UK Corporate Governance Code*.

7.10 Governing bodies of further education colleges are larger, and can have between 12 and 20 members. As we note below, however, their composition reflects a number of constituencies - including staff and students - and aims to represent business and local community interests.

7.11 A review of research on board effectiveness suggests that evidence on effective board size is mixed: earlier research reported that there is no consistent pattern to suggest an appropriate board size; some research indicates larger boards are less efficient, while smaller boards can lack the necessary diversity of skills and stakeholder representation (169). A study of the influence of board size on performance in private sector organisations reports an 'inverted U' relationship, where performance is lower if boards are 'too large' or 'too small' (19).

Engaging service users in governance structures

7.12 The board of directors has been described as the link between the ownership of a company and its management - with the board having been charged by the owners with directing and controlling the business on their behalf, in their interests (77).

7.13 In the plc sector, it is clear that the company's shareholders (whether individuals or institutions) are its owners and that they charge the board with directing and controlling the business on their behalf. The main means through which the board accounts to the company's owners for its performance is the annual (or as required, more frequent) report to shareholders. Shareholder representatives may also be non-executive members of the board, but to comply with the *UK Corporate Governance Code* must not form a majority on the board. The securities regulator and the stock exchange have a role to play in regulating the sector, but - given the extent to which shareholders themselves hold companies to account - regulation is on the basis of principles rather than rules.

7.14 In the public sector, the 'owners' are the public. In a similar way to shareholders and plc boards, the public charges the board of the public service organisation with directing and controlling the organisation on its behalf and in its interests. As noted at para 3.2 above, since the early 1990s various government initiatives have sought to emphasise this relationship, to give the public more influence in the way public services are delivered and to make accountability to the public central to the way in which public services organisations are run. The means through which meaningful accountability can be achieved in the public sector continues to be a live debate.

7.15 Government acts as a representative of the public when it allocates funding to public service organisations and, accordingly, all boards that deliver public services using public money are accountable to government or its designated agency. Boards of public sector organisation are also, however, seen as being accountable to those sections of the public whose interests they have been set up to serve: citizens in general, local communities, patients, students, tenants, transport users, other service users. One of the continuing debates around accountability is the scope for a 'trade off' between the two: the more a public service organisation is genuinely accountability to its service users; the less it needs to account to government.

Co-regulation

7.16 In 2010, the Tenant Services Authority in England sought to establish regulation of the social housing sector on a similar basis to regulation of the plc sector. Just as in the plc sector the primary relationship is between the company and its shareholders, so the TSA's concept of 'co-regulation' sought to emphasise that the primary relationship is between the registered provider and its tenants (rather than between the registered provider and the regulator). Under co-regulatory arrangements (132):

"Tenants should have opportunities to shape service delivery and to hold the responsible boards and councillors to account [and] have the ability to scrutinise their provider's performance, identify areas for improvement and influence future delivery. "

7.17 Resident scrutiny, and its potential to reduce the burden of regulation and inspection, began to be talked about across the housing sector from around 2005. By the time that co-regulation was introduced in 2010, different models of resident scrutiny were already well developed. The Tenant Involvement Commission, an independent commission chaired by the Chief Executive of the National Consumer Council, published an influential report in 2006 - *What Tenants Want* (137) - which recommended that associations introduce into their governance structure a 'strategic residents' panel'.

7.18 We set out in Box 11 below the report's outline of the role of such a panel. This has provided the blueprint for the many residents' scrutiny panels/committees/boards/councils that have been established over the past five years or so.

The panel should be a strategic body that feeds directly into the decision making of the board and executive management team. The panel should have a right to be heard by the board as well as a right of response from the board. What the panel chooses to focus on will follow the priorities and concerns of tenants. It may for example:

- contribute towards the development of business plan and budget priorities, policy directions and strategies to steer the housing association's work;

- help in shaping the tenant involvement policy and the way in which the organisation involves residents and is accountable to them;
- scrutinise performance reports, comment on the association's performance and initiate suggestions for service improvements;
- take part in service reviews by helping to establish improvement plans and targets and monitoring performance against them;
- monitor how the housing association matches up to [its commitments to tenants], including its service and accountability pledges;
- identify key issues, from rats to roofs, that it wants the housing association to focus on;
- play a 'watchdog' role by requesting action by the board where there is persistent local or service-wide failure, making recommendations for improvements;
- help develop a framework for any tenant inspectors and the panel's engagement with regulators and inspectors.

There needs to be clarity about the role of the panel in relation to other tenant involvement structures, such as residents' associations and tenant board members

The panel should be recruited in an open and transparent manner and reflect the diversity of residents.

Box 11: The role of a strategic residents' panel

From *What Tenants Want*, The Tenant Involvement Commission, 2006

The public benefit corporation

7.19 The health sector offers a different model for engaging service users and stakeholders in the governance structure of the organisation: the NHS foundation trust. First established in 2004, there are now 145 foundation trusts, including hospitals, mental health service trusts and ambulance service trusts. They are public benefit corporations led by a board of directors and authorised and regulated by an independent regulator (known as Monitor). They are accountable to:

- Parliament, where they must lay their annual reports and accounts;
- local commissioners, who contract with them to deliver services; and
- local communities.

7.20 The means through which foundation trusts are accountable to local communities is a governance structure comprising three elements:

- a membership - of several hundred, formed of three constituencies: public, staff, patients which elects members of:

- a council of governors - of perhaps 30 or 35 members, some of whom are elected by the members; others are appointed by stakeholder organisations

which appoints and holds to account:

- a board of directors - comprising a roughly equal numbers of non-executive and executive members.

The chair of the board of directors is also chair of the council of governors.

7.21 Foundation trust members:

- receive information about the trust and are consulted on plans for future development of the trust and its services;
- elect representatives to serve on the council of governors; and can
- stand for election to the council of governors.

The council of governors:

- appoints/removes the chair and the other non-executive directors;
- approves an appointment (by the non-executive directors) of the chief executive;
- decides the remuneration and allowances, and the other terms and conditions of office, of the non-executive directors;
- appoints/removes the trust's auditor;
- is presented with the annual accounts, any report of the auditor on the accounts and the annual report; and
- provides input to the trust's plans.

7.22 The foundation trust model of governance appears to be successful: the intention is that most NHS trusts will adopt the model over the year ahead and the Health & Social Care Act 2012 has given the foundation trust council of governors additional statutory duties and powers. These include the duty to hold the non-executive directors, individually and collectively, to account for the performance of the board of directors and the right to:

"...require one or more of the directors to attend a governors' meeting for the purpose of obtaining information about the trust's performance of its functions or the directors' performance of their duties (and for deciding whether to propose a vote on the trust's or directors' performance).

7.23 The governing body of further education colleges also draws its membership from a number of constituencies although within a single governing body (as opposed to the NHS foundation trust model of a body of governors and a board of directors). The FE college governing body comprises independent members, the college principal, staff, students and, sometimes, parents, with each college having some flexibility to determine how many members it will draw from each constituency. Student, staff and parent members of the governing body are elected by their respective constituencies. As in other sectors where board membership is drawn from various constituencies, it is stressed that all members are appointed as individuals, are required to put the interests of the governing body and the college first and are not allowed to accept a mandate from any other organisation.

Community representatives / local experts

7.24 A 2008 study by the Joseph Rowntree Foundation, *Designing citizen-centred governance* (101), reported that there was still uncertainty about the roles of citizens and service users in governance. The study highlights the need for those designing governance arrangements to be clear whether citizens and service users are being involved as community representatives or as individual experts. It identifies two 'design principles' which have different implications for governance design:

'**Local knowledge** is about the expertise that citizens and service users have to contribute to the formulation of policy and the design and delivery of service. Traditionally, expertise was regarded as something restricted to professionals. Now, however, it is recognised that citizens and service users have their own equally important local knowledge to contribute.

Local representation emphasises how participatory forms of governance can contribute to making public decisions more democratic. Engagement in governance is about 'representing' the views of particular local constituencies in the decision-making process. This gives greater legitimacy to decisions.'

Does a board need committees?

7.25 Current guidance on committees is similar across most parts of the public and voluntary sector (104, 106, 107, 109, 114, 133): committee structures should be clear and streamlined and add value to scrutiny and decision without duplication of effort; there should be clear written terms of reference and the use of any delegated authority properly supervised; arrangements should be regularly reviewed to ensure that they continue to meet the organisation's governance needs.

7.26 In some sectors there is more prescription about committee arrangements. In the corporate sector, the *UK Corporate Governance Code* requires boards of public limited companies to have a remuneration committee, a nominations committee and an audit committee. NHS foundation trusts are required by law to have, as a minimum, these same three committees. The desirability of establishing a separate risk committee is an issue that has been debated in the corporate sector since the 2008 financial crisis (5).

7.27 While for many years housing associations in England tended to have committees shadowing the main functions of the organisation (such as housing services, development and finance) (133), our observation of organisations across the sector is that there has been a significant reduction in the number of board committees over the past decade. Many medium and large registered providers have now adopted a committee structure that follows the *UK Corporate Governance Code* guidance: an audit committee meeting regularly; remuneration and nominations committee(s) meeting as required.

7.28 How to decide whether or not a committee is needed? We set out in Box 12 below, the tests that it is suggested NHS boards consider before establishing a new committee.

- Are the proposed functions of the committee really board functions or are they executive functions?
- Is a standing committee really required - or can the task be undertaken by a short life group?
- Are there good reasons why the proposed functions cannot be carried out by the whole board?
- Is the committee being established because of one major incident or issue - is it a proportionate response?
- Does the creation of the committee reduce clarity of role or create lack of alignment between other committees of the board and the board itself

Box 12: Tests to apply before establishing a new committee.

From *The Healthy NHS Board*, NHS National Leadership Council, 2010

8. SUPPORT FOR GOOD GOVERNANCE

Resources

8.1 A board's effectiveness depends of course not only on its membership and structures but on how it carries out its work. As noted in Section 3 above, there is now a wealth of guidance available on good governance practice - in addition to Community Housing Cymru's own comprehensive guide, *The Board Game* (146).

8.2 During our literature search we identified a number of websites that give excellent practical guidance on anything and everything to do with governance. As well as giving guidance and advice, several of them include model documents and specimen policies including:

- board and committee terms of reference;
- board member, chair and committee chair role descriptions;
- codes of conduct;
- statement of board meeting etiquette;
- statement of matters reserved;
- use of urgent powers policy;
- conflict of interest policy;
- letters of appointment;
- meeting agenda format; and
- meeting paper cover sheet.

8.3 We include at Appendix 1 a list of the websites that we consider the most useful. Although some of these give guidance, model documents and, in some cases, training materials aimed at a specific sector, in most instances the material is equally relevant to other sectors. None of these websites requires a member login to access materials.

8.4 Another key resource for boards is of course the company secretary (or clerk, or board administrator). Under whatever designation, the officer who has responsibility for providing support to the board has a crucial role in helping the board to function effectively. There is increasing recognition of the importance of this role, for example in the education sector (186, 187, 189).

8.5 Amongst his or her many duties, the company secretary (or equivalent) is likely to have responsibility, with the chair, for three aspects of board operations that have the potential significantly to impact on the quality of board decision making and overall effectiveness:

- planning the annual calendar of board meetings and other activities;
- preparing the agenda and pack of papers for board meetings; and
- preparing meeting minutes and following up actions and decisions.

The annual board calendar

8.6 In Section 5 above, we note the need for the board to consider and decide how it will work, the activities it will engage in and how it will allocate its time to add most value for the organisation. Good practice (31) suggests that an annual board calendar is a vital tool in helping the board to stay in control of how it spends its time, uses its skills and experience and marshals the necessary resources.

8.7 The board's annual calendar could be seen as the product of four considerations:

- what topics should the board consider over the year ahead? This will, of course, need to need to take account - amongst other things - of the board's constitutional responsibilities, terms of reference and the matters that are reserved for the board and the matters delegated to committees;
- with what purpose? The purpose will often be clear, for example when defined in the board's constitution, but not always - for example, where items are routinely brought to the board for the board "to note" or "to discuss";
- when should these topics be considered? As well as having regard to the organisation's operational cycle, it is useful to consider when in the development of a policy, proposal or plan the board can most usefully engage with the topic. A common board member complaint is that the board does not see plans until they are 'fully cooked' and is then reluctant to ask the executive to start again with a different recipe or set of ingredients;
- what are the best means through which the board can engage with the topic? Is there a better option than the standard agenda item? Options suggested by the FRC (14) where the board has significant decisions to make are:
  - commissioning an independent report;
  - seeking advice from an expert;
  - introducing a devil's advocate to provide challenge
  - establishing a sole purpose sub-committee or 'task and finish' working group; and
  - convening additional meetings.

  For other topics and other circumstances it may also be worth considering:
  - a board briefing or training session;
  - a joint meeting with stakeholders;
  - a board meeting at a different location or with additional participants;
  - a conference call; or

- a facilitated discussion.

The board meeting pack

8.8 One governance expert giving evidence to the Parliamentary Commission on Banking Standards in 2012 writes (69):

"No matter how knowledgeable, experienced and diverse a board of directors may be, they are effectively blindfolded until they are provided with the information around which they formulate their judgement and challenge.

'Information risk' is arguably one of the biggest risks faced by the board: our banks have not been plunged into crises because of a lack of problem-solving prowess - but because, for far too long, they didn't know they had a problem. The principal source of information for most non-executives (outside of the board meeting) is the board pack and in our experience, the state of most company board packs does little to mitigate this risk."

8.9 Common shortcomings of board packs are seen to be (65, 66):

- size - too long; not focusing on key messages;
- structure - not following a consistent, logical structure; a collection of 'silo reports' rather than an overarching narrative; data set out in appendices rather than alongside commentary;
- scope - content too narrow, weighted towards backward-looking financial and performance detail, providing little stimulus for more strategic discussion;
- style - not clearly written; not enough use of summaries; not enough use of techniques such as dashboards using graphics to illustrate organisational performance; data included without explaining what it shows.

There are also concerns that board papers are vulnerable to a 'favourability bias' - more likely to include information that reflects favourably on the executive. We would also note the crucial role played by the board pack in providing the "clear line of sight into the business" that, the FRC has noted (14), is essential for good governance.

8.10 A good board pack for the corporate sector has been described (67) as:

"...short enough to be read cover-to-cover on a Sunday afternoon and to allow the board to see how the business has fared in matters both financial and non-financial, as well as how their agreed strategy is guiding them towards their goals.

It will provide insight into the business's wider operating environment and how their business is performing relative to its peers.

The board pack should help the reader, not burden them: it should provide clear, unvarnished and concise insight and should not be a hundred page good-news-story, packed full of raw data tables and unintelligible slides."

8.11 The use of technology in the preparation and distribution of board papers is well established in some companies and is reported to deliver substantial advantages. It is reported that (52):

"The ability to consume a high volume of corporate information, delivered through a user-friendly and intuitive iPad, means that directors are now happy to consider a portable tablet solution as a viable alternative to paper board packs. Indeed, electronic board papers are no longer just an alternative. The concept offers vast improvements to both the delivery and use of the documents within board packs."

8.12 Advantages are seen to be (52):

- a reduction in the cost and time taken to compile board packs;
- quick and secure distribution of electronic papers;
- more portable than hard copy board packs;
- last minute revisions can be made in real-time - ensuring the most recent documents are available;
- reports can include extra functionality, such as data drill-downs and clickable charts and tables;
- facilities allow annotation, just as with paper board packs; and
- easy navigation between agenda items and relevant documents.

8.13 Technology can also help an organisation to increase the openness and transparency of its governance arrangements by, for example, enabling video recordings of board meetings to be made widely available on the internet. NHS England broadcast live its board meeting held on 12 April 2013 and posted a high quality recording of the meeting on its website and on *YouTube* a few days later. To make the proceedings even more accessible, the recording is broken down into parts so that the recording of individual agenda items can be viewed separately. Below the recordings on the NHS England website is the facility to post a comment.

Meeting minutes and follow-up

8.14 The need for well-crafted minutes, that capture the essence of the discussion and record decisions and actions, is often overlooked - although not, apparently, by FRC Chairman Baroness Hogg who reportedly (72) takes minutes of meetings herself.

8.15 Also important is the process through which actions and issues arising from board meetings are followed up. This has two dimensions: maintaining an action log, or similar, to track that the board's agreed actions and decisions are implemented; and reviewing the outcome of board decisions. It has been noted (20) that:

"...too many boards fail to revisit decisions from previous meetings to establish whether the predicted benefits did in fact materialise. Without a systematic review of whether a proposed business case delivered in practice, the board may assume progress and success where none has been achieved."

9. CURRENT GOVERNANCE CHALLENGES

9.1 The Learning & Skills Improvement Service, which provides resources for the further education sector, published a report a few months ago (187) identifying a range of challenges and priorities for FE college governance. As it reflects many of the themes noted above, we have used it as a basis for compiling here a list of current governance challenges and areas for improvement that we consider relevant to the housing association sector in Wales.

9.2 Governance challenges include:

Challenge 1: Polite consensus. Boards tend to avoid the vigorous debate over big issues that research shows is a key feature of high-performing teams. There often seems to be a polite consensus, a wish to avoid conflict and a search for harmony, which militate against challenging the status quo.

Challenge 2: Imbalance of support and challenge. The polite consensus can be a reflection of a broader issue that board members see their role primarily as appointing the right leaders and then supporting them. Frequently board members are unwilling, or lack the confidence and skills, to challenge, especially if there is a close relationship between the chair and the chief executive.

Challenge 3: Positivity bias - the tendency for leader positivity to become excessive so that leaders believe their own narratives that everything is going well and others are discouraged from raising problems or admitting mistakes. Board members need to ensure that risk management arrangements encourage innovation and tolerate risks, but at the same time ensure the long term values, assets and reputation of their organisation.

Challenge 4: Information risk. Boards can only be as good as the information provided allows them to be. Boards need information - and in a format - that gives them a clear line of sight into the business.

Challenge 5: Over-reliance on board meetings. More board awaydays, participation in working groups, experience sharing with other boards, site visits, work shadowing, planned contact with service users and staff can all help to increase the board's understanding of the business, its stakeholders and the operating environment.

Challenge 6: Poorly designed board processes and work programmes. Good decision-making and effective leadership does not happen by accident. Boards need to design their processes for making decisions, monitoring performance and developing strategy and they need to plan ahead to make sure that they have the time and resources they will need.

Challenge 7: Boards not engaged in strategy from the start. Not enough boards are engaged in the creation of strategy at its earliest stages and then throughout its formation. They do not shape strategy, nor do they ultimately own or always understand it well enough to monitor it robustly.

Challenge 8: Boards not adequately fulfilling their responsibilities in relation to risk. The board’s responsibilities included determining the organisation’s approach to risk, setting its culture, risk identification, oversight of risk management, and crisis management.

Challenge 9: Compliance governance. Such have been the external pressures that many boards have understandably become focused on compliance with requirements imposed from above. A greater focus on 'creative governance' or 'generative governance' - with the board reclaiming some of the creative thinking role from management - can give the board member a more fulfilling role, make better use of board member skills and experience and enable the board to deliver greater value for the organisation

Challenge 10: Underdeveloped board self-evaluation. Although many boards now carry out an annual evaluation of their performance, they are not always sufficiently robust nor do they translates into inspiring governance improvement plans. Good practice in the corporate sector stresses the importance of external facilitation in self-evaluation, the production of an improvement plan and a report on this to stakeholders.

Challenge 11: Insufficient support for the chair. The quality of the chair is the single most important factor in creating an effective board and driving organisational improvement. The organisation must effectively support the chair, providing opportunities for skills development backed up by coaching and mentoring and peer support.

Challenge 12: Underdeveloped succession planning, especially for the chair. Within the ethos of ‘polite consensus’, many boards are unwilling to terminate the membership of longstanding members. These issues are especially sensitive when the chair has been in post for a lengthy period, which frequently suppresses succession planning. Robust self-assessment will help and an expectation on turnover of membership at the outset is critical to enabling this.

Challenge 13: Inability to attract and retain high calibre board members. In these tumultuous times, there is a greater than ever need for high calibre board members with current relevant skills and experience and who can devote sufficient time to the role.

Challenge 14: Lack of board diversity. Despite the best efforts of many boards and external agencies, the composition of boards still inadequately reflects the communities served.

Challenge 15: 'Horizontal accountability' vacuum. As public service organisations are urged to switch from 'vertical accountability' (to regulators and government) to 'horizontal accountability' (to local stakeholders) many boards still find this a challenge. Boards need to establish clarity about the role of the board in engagement. It is the board's role to ensure engagement is taking place and hear the results of that engagement to inform strategic thinking and planning.

Challenge 16: Underdeveloped capacity of service users to be effective board members. Many board members who are appointed or elected to the board from the service user constituency struggle to make an impact or deal with strategic issues. Organisations that provide continuing support and mentoring have been able to enhance the confidence and impact of service user board members.

Challenge 17: Limited understanding of staff views. Unlike in some other sectors, in the housing association sector there is no tradition of including staff members in the organisation's governing body or of establishing consultation arrangements through which boards hear the staff perspective.

Challenge 18: Company secretaries as undervalued change agents.. Company secretaries (or equivalent), especially when networked to regional and local peers, are a powerful resource available to boards. In many organisations, however, they are still underpowered, underused or lack the skills and knowledge to help lead change in governance.

Campbell Tickell **May 2013**

APPENDIX A

WEBSITES GIVING GOOD GOVERNANCE GUIDANCE

These websites contain a wealth of guidance and advice on anything and everything to do with governance, particularly for public or voluntary sector organisations. As well as giving guidance and advice, several of them include model documents and specimen policies. None of the websites needs a membership log-in to access resources.

Institute of Chartered Secretaries and Administrators (ICSA)
https://www.icsaglobal.com/

National Council for Voluntary Organisations (NCVO) http://www.ncvo-vol.org.uk/

Excellence Gateway (from the Learning and Skills Improvement Service)
http://www.excellencegateway.org.uk/

Charity Commission http://www.charity-commission.gov.uk/

Confederation of Co-operative Housing (CCH) http://cch.coop/

National Federation of Tenant Management Organisations (NFTMOs)
http://www.nftmo.com/

Appendix B

LITERATURE SEARCH RESULTS

CORPORATE SECTOR

1. *The UK Corporate Governance Code*. Financial Reporting Council, 2012
2. *Developments in Corporate Governance 2012. The impact and implementation of the UK. Corporate Governance and Stewardship Codes.* Financial Reporting Council 2012
3. *The UK Approach to Corporate Governance*. Financial Reporting Council, 2010
4. *The UK Stewardship Code.* Financial Reporting Council, 2012
5. *Boards and Risk: A summary of discussions with companies, investors and advisers.* Financial Reporting Council 2011
6. *Corporate Governance.* The London Stock Exchange, 2012
7. *A review of corporate governance in UK banks and other financial industry entities. Final recommendations ('Walker review').* HM Treasury, 2009
8. *Review of the Role and Effectiveness of non-executive Directors ('Higgs review').* Department for Trade & Industry, 2003
9. *The Tyson Report on the Recruitment and Development of Non-Executive Directors*. London Business School, 2003
10. *Treasury Committee. Corporate governance and remuneration in the financial services sector. Written evidence.* House of Commons, 2012
11. *Corporate Governance Review 2012. The Chemistry of Governance*. Grant Thornton, 2012
12. *Corporate Governance Guidance and Principles for Unlisted Companies in the UK.* Institute of Directors and European Confederation of Directors' Associations, 2010
13. *Board responsibilities and creating value. Demonstrating leadership and accountability.* Institute of Chartered Accountants in England & Wales, 2006
14. *Guidance on Board Effectiveness.* Financial Reporting Council, 2011
15. *Boardroom Behaviours*. *A report prepared for Sir David Walker by the Institute of Chartered Secretaries and Administrators*. Institute of Chartered Secretaries and Administrators, 2009
16. *Report on Board Effectiveness. Highlighting best practice: encouraging progress.* Association of British Insurers, 2011
17. *Board Effectiveness. What Works Best.* PwC and The Institute of Internal Auditors Research Foundation, 2011
18. *Effective corporate governance*. Financial Services Authority, 2010
19. *Corporate Governance in Banking: The role of the board of directors.* Andres P. Vallelado E. Journal of Banking and Finance, 2008

20. *A clear benefit*. Harris J. Croney P. Governance & Compliance magazine, March 2012

21. *Framing the future of corporate governance Deloitte Governance Framework.* Deloitte, 2012

22. *Framing the future.* Barber B, Governance & Compliance magazine, March 2013

23. *The Eversheds Board Report. Measuring the impact of board composition on company performance.* Eversheds, 2011

24. *Best Behaviour.* Goodwin C. Governance & Compliance magazine, May 2012

25. *Reconnecting the Board to the Business.* The All Party Parliamentary Corporate Governance Group, 2011

26. *Building Better Boards.* DTI, 2004.

27. *Life in the Boardroom. 2013 Chairman and Non-Executive Director Survey.* Directorbank, 2013

28. *What Makes Great Boards Great.* Sonnenfeld A. Harvard Business Review, September 2002

29. *Director 360 degree. Changing roles, new challenges.* Deloitte, 2011

30. J*oined up. Getting the best from board committees.* Chartered Secretary magazine, December 2011

31. *How Well-Run Boards Make Decisions.* Useem M. Harvard Business Review, November 2006

32. *This Year's Model: influences on board and director evaluation*. Long T. Corporate Governance: An International Review, November 2006.

33. *The UK Model of Corporate Governance: An Assessment from the Midst of a Financial Crisis.* Barker R. Institute of Directors, 2008

34. *ICSA Guidance on Directors' General Duties*. Institute of Chartered Secretaries & Administrators, 2008

35. *ICSA guidance on joining the right board: due diligence for prospective directors*. Institute of Chartered Secretaries and Administrators, 2011

36. *ICSA guidance: a sample non-executive director's appointment letter*. Institute of Chartered Secretaries and Administrators, 2011

37. *ICSA Guidance on Corporate Governance Role of the Company Secretary*. Institute of Chartered Secretaries & Administrators, 2008

38. *Boards: Does one size fit all?* Coles J, Daniel N, Naveen L, Journal of Financial Economics, 2008

39. *The Emerging Reality of Corporate Governance: Theoretical Challenges and Alternative Thinking*. Sun W, Leeds Metropolitan University, 2012

40. *Directors' Responsibilities.* Institute of Chartered Accountants in England & Wales, 2011

41. *Effective Board Meetings.* Institute of Chartered Accountants in England & Wales, 2011

42. *Business Risk. A practical guide for board members*. Institute of Directors, 2012

43. *The Failure of the Royal Bank of Scotland. Part 2. Management, Governance and Culture.* Financial Services Authority, 2011

44. *What makes an exceptional Chairman? Required qualities for challenging times*. Alvarez & Marsal, 2012

45. *What makes an outstanding chairman?* The Directorbank Group, 2008

46. *Getting the most out of your board evaluation.* Greenspan M, Shillady J. Governance & Compliance magazine, March 2013

47. *Governance: the boardroom and beyond.* Bevington J, de Soysa N, Reid M. *Governance & Compliance* magazine, April 2013

48. *Governance insights: The tone of governance.* Grant Thornton, 2012

49. *Unitary or Dual Board Structure: Which one serves shareholders' interests best?* Tse G. FTMS Training Systems (HK) Ltd, 2009

50. *A Handbook of Corporate Governance and Social Responsibility. Aras G. Crowther D. Gower Publishing, 2010*

51. *Principles of Corporate Governance 2012.* Business Roundtable, 2012

52. *Technology in the boardroom: are you being left behind?* Evans, M. Governance and Compliance magazine, July 2012

53. *Why a boardroom is the least bad option.* Whitehead P. Financial Times, 7 March 2013

54. *Non-executive director: a task for which no one is qualified.* Whitehead P. Financial Times, 11 April 2013

55. *Women Matter 2012: Making the Breakthrough.* McKinsey & Company, 2012

56. *Women on Boards ('Davies report').* Department of Business Innovation & Skills, 2011

57. *The Female FTSE board report 2012. Milestone or Millstone?* Sealy R. Vinnicombe S. Cranfield International Centre for Women Leaders, 2012

58. *Breathing Room on Boards.* Mader S. Nahas C. Korn/Ferry International

59. *Widening the Lens: The Challenges of Leveraging Boardroom Diversity*. Mazoni J-F. Strebel P. Barsoux J-L. Harvard Business Review, May 2011.

60. *Smart companies promote diversity and avoid 'group think' mentality.* Watkins E. Western Mail, 14 March 2013

61. *Keeping gender on the agenda.* Herron A. Yousouf L. Governance & Compliance magazine, January 2013

62. *Vince Cable tells City: Put more women in the boardroom before we force you.* Grice A. The Independent, 10 April 2013

63. *Fit for future?* Bateson A. Governance & Compliance magazine, October 2012

64. *The UK Code of Corporate Governance: Link between Compliance and Firm Performance.* Shabbir A. Padgett C. Cranfield Management Research Paper, 2008
65. *The Importance of Information.* Croney P. Board Intelligence
66. *Are your directors getting the right information...before, during and after the meeting?* Cordes M. *Business Briefing,* 2012
67. *Board must not play cameo role.* Sundberg J. Strategy magazine, December 2012
68. *Boards progress, but there's still a long way to go.* Hilton A. Evening Standard, 12 December 2012
69. *Submission to Parliamentary Commission in Banking Standards.* Sundberg J. August 2012
70. *Submission to Treasury Select Committee: Corporate Governance & Remuneration Inquiry.* Harris J. 2012
71. *What Makes an Exceptional Independent Non-Executive Director?* Korn/Ferry Institute, 2012
72. *Leading view: 60 seconds with Baroness Hogg.* Board Intelligence, October 2012
73. *Decision time. What can we do to improve boardroom decision-making?* Governance & Compliance magazine.
74. *Framing the Future.* Barber B. *Governance & Compliance* magazine, March 2013

PUBLIC SECTOR

75. *The Good Governance Standard for Public Services*. The Independent Commission on Good Governance in Pubic Services, OPM & CIPFA, 2004
76. *Going Forward with Good Governance.* OPM, 2007
77. *Rubber stamped? The expectations and experiences of appointed public service governors.* OPM, 2003
78. *Corporate Governance. Improvement and trust in local public services.* Audit Commission, 2003
79. *Welcome to the Board. Induction and Support for Non-Departmental Public Body Board Members.* Public Appointments Unit, Cabinet Office, 2005
80. *Code of Conduct for Board members of public bodies.* Cabinet Office, 2011
81. *Annual Report 2011/12.* The Commissioner for Public Appointments, 2012
82. *Public Appointments Diversity Strategy.* The Commissioner for Public Appointments, 2013
83. *On Board. A guide for Board members of public bodies in Scotland.* Scottish Executive, 2006.
84. *Specimen board meeting etiquette (Not for profit organisations).* Institute of Chartered Secretaries & Administrators, 2012

85. *Abolish committees for more effective association management.* The Forbes Group.

86. *Boards should only have three committees.* La Piana D. Blue Avocado, June 2009

87. *Board committee structure.* Johnson E.M. The Center for Association Leadership, 2006

88. *Good Governance Guide.* Governance Matters. www.governancematters.org

89. *What Makes a Nonprofit Board Exceptional?* Bobowick M. 2006. Governance Matters. www.governancematters.org

90. *Governance as Leadership. Reframing the Work of Non-profit Boards*. Chait R, Ryan W, Taylor B. Wiley, 2005.

91. *Strengthening Leadership and Governance for Nonprofit Boards.* Pricewaterhouse Coopers, 2008

92. *Carver's Policy Governance Model in Non-profit Organizations.* Carver J Carver M, 2001

93. *Twelve Principles of Governance That Power Exceptional Boards.* Boardsource, 2005

94. *Board Development Practices and Competent Board Members. Implications for Performance.* Brown W. Nonprofit Management & Leadership vol. 17, no. 3, Spring 2007

95. *Focus on governance. Board governance can be accountable, creative, and cooperative.* Roop E. In Trust magazine, 2011

96. *What is the Best Size for Your Board?* Council on Foundations, 2010

97. *Standards matter. A review of best practice in promoting good behaviour in public life.* Committee on Standards in Public Life, 2013

98. *The Guide to Not-for-Profit Governance 2012*. Weil, 2012

99. *Boardsoure Non-profit Governance Index 2010.* Boardsource, 2010

100. *Nonprofit Governance Index 2012.* Data Report 1. CEO Survey of BoardSource Members, Boardsource 2012

101. *Designing citizen-centred governance.* Joseph Rowntree Foundation, 2008

102. *In Search of Board Effectiveness.* Hough A. Nonprofit Management & Leadership, vol 16, no 3, Spring 2006.

103. *Ethical Governance Toolkit. IDeA, 2008*

CHARITY/VOLUNTARY SECTOR

104. *The Hallmarks of an Effective Charity.* Charity Commission, 2008

105. *Trustee Handbook.* Charity Commission, 2012

106. *Good Governance. A code for the Voluntary and Community sector*. National Council for Voluntary Organisations, 2010

107. *Good governance: a practical guide for trustees, chairs and CEOs.* National Council for Voluntary Organisations, 2011

108. *Codes of Conduct for Trustees. Developing and Using Trustee Codes of Conduct.* Charity Trustee Networks, 2008.
109. *Good Governance. A Code for the Third Sector in Wales.* Wales Council for Voluntary Action, 2012
110. *Charity Governance Review 2013. The science of good governance. Towards charity best practice.* Grant Thornton, 2013
111. *Delivering effective governance. Insights from the Boards of larger charities.* Compass Partnership, 2012
112. *15 questions trustees need to ask.* Charity Commission, 2012
113. *Measuring governance performance.* The Governance Hub, 2006
114. *Tending your Board. A seasonal guide to improving the way your Board works.* The Governance Hub, 2006
115. *Better Governance. An Introduction to Measuring and Improving Board Effectiveness*. The Governance Hub, 2007
116. *For Love and Money. Governance and Social Enterprise.* The Governance Hub, 2008
117. *Starting on the right track. A guide to recruiting and inducting a new Chair.* The Governance Hub, 2007
118. *Setting up a network for Chairs. The Governance Hub, 2007*
119. *Mentoring for Chairs. A review of four approaches to mentoring for chairs and vice-chairs of voluntary organisations.* The Governance Hub, 2007
120. *Living Values. A report encouraging boldness in third sector organisations.* Community Links, 2006.
121. *Faith and hope don't run charities (trustees do). A practical guide for voluntary members of management committees*. Wales Council for Voluntary Action, 2012
122. *What makes Chairs of Governing Bodies Effective?* Cornforth C. Harrison Y. Murray V. National Council for Voluntary Organisations and the Charity Trustee Network, 2010
123. *Governance and Management - an Overview for Charities.* Institute of Chartered Secretaries and Administrators, 2008
124. *Specimen Skills Register for Charity Trustees.* Institute of Chartered Secretaries and Administrators, 2008
125. *Trustees 2012*. The Guardian, 10 October 2012
126. *Measuring board effectiveness*. Barnard H, Lesirge R. The Guardian, 9 November 2012
127. *Is the payment of charity trustees inevitable?* Karl Widling blog on NVCO website, September 2011
128. *Trustees: to pay or not to pay?* Ramrayka L. The Guardian, October 2012
129. *New Adventures in Trustee Board Meetings.* Karl Wilding blog on NCVO website, November 2012

130. *Managing risk in charities. Lessons from the past decade and look to the future. Charity Finance Group and Cass Business School, 2012*

131. *Corporate Governance. Code of Best Practice for Consumer Co-operative Societies. Volumes 1 and 2.* Co-operatives UK

HOUSING SECTOR: ENGLAND

132. *The Regulatory Framework for Social Housing in England from April 2012.* Homes & Communities Agency, 2012

133. *Excellence in governance. Code for members and good practice guidance.* National Housing Federation, 2010.

134. *Code of conduct 2012 with good practice guidance*. National Housing Federation, 2012

135. Campbell Tickell research, 2012/13

136. *Excellence in Governance: Code of Governance for Housing Co-operatives.* Confederation of Co-operative Housing, National Housing Federation, 2012.

137. *What Tenants Want.* Tenant Involvement Commission, 2006

138. *Model Code of Governance.* National Federation of Tenant Management Organisations, 2012

139. *Board member pay: Principles and practicalities.* National Housing Federation, 2009

140. *Community Gateway guide*. Confederation of Co-operative Housing, 2006

141. *Board member pay spreadsheet.* National Housing Federation, 2013

142. *Scrutiny on the cheap.* Inside Housing, 27 September 2012

HOUSING SECTOR: WALES

143. *Charter for Good Governance.* Community Housing Cymru, 2010

144. *Charter for Good Governance. Supporting Guidance.* Community Housing Cymru, 2010

145. *Supporting effective governance. Good practice guidance*. Community Housing Cymru, 2009

146. *The Board Game - A Good Governance Handbook for Housing Associations and Community Mutuals.* Community Housing Cymru, 2012

147. *Report on the Governance of Housing Associations in Wales.* Community Housing Cymru, 2008

HOUSING SECTOR: SCOTLAND

148. *Regulatory Standards of Governance and Financial Management*. The Scottish Housing Regulator, 2012

149. *Governance Matters.* The Scottish Housing Regulator, 2008

150. *Governance Matters. Edition 1. The Scottish Housing Regulator, 2012*

151. *Governance Matters. Edition 2. The Scottish Housing Regulator, 2013*

HEALTH SECTOR

152. *The NHS Foundation Trust Code of Governance.* Monitor, 2010
153. *Compliance Framework 2013/14.* Monitor, 2013
154. *Effective governance in NHS foundation trusts*. Monitor, 2008
155. *Your statutory duties: a draft reference guide for NHS foundation trust governors*. Monitor, 2013
156. *Director-Governor interaction in NHS foundation trusts. A best practice guide for boards of directors.* Monitor, 2012
157. *Code of Conduct, Code of Accountability in the NHS*. NHS Appointments Commission, 2005
158. *Specimen code of conduct for NHS foundation trust governors.* Institute of Chartered Secretaries and Administrators, 2012.
159. *Mapping the gap*. *Highlighting the disconnect between governance best practice and reality in the NHS.* Institute of Chartered Secretaries and Administrators, 2011.
160. *The Healthy NHS Board. Principles for Good Governance*. National Leadership Council. 2010
161. *Effective Boards in the NHS? A study of their behaviour and culture.* The NHS Confederation, 2005
162. *Engaging boards. The relationship between governance and leadership, and improving the quality and safety of patient care.* Alimo-Metcalfe B, The Kings Fund, 2012
163. *The Good Governance Body of Knowledge*. Good Governance Institute, 2010
164. *Good Governance Board Annual Review.* Good Governance Institute, 2010
165. *Good Governance Handbook*. Healthcare Quality Improvement Partnership and Good Governance Institute, 2012
166. *Taking it on trust. A review of how boards of NHS trusts and foundation trusts get their assurance.* Audit Commission, 2009
167. *NHS Governance Review 2013. The formula for clear governance. Finding the equilibrium.* Grant Thornton, 2012
168. *On best behaviour. The effective chief executive–chair relationship*. OPM, 2010
169. *Board Effectiveness: A literature review.* Selim G. Verity J. Brewska E. Cass Business School, 2009
170. *Brilliant Boards.* Chambers N. Pryce A. Health Service Journal, June 2011
171. *The Intelligent Board 2010. Patient experience.* Dr Foster Intelligence, 2010
172. *Leadership and engagement for improvement in the NHS. Together we can*. The King's Fund, 2012
173. *The role of corporate governance and boards in organisational Performance*. Cornforth C. Chambers N. Cambridge University Press, 2010

174. *Spot the difference: A study of boards of high performing organisations in the NHS.* Chambers N. Pryce A, Yanchao L. Poljsak P. Manchester Business School, 2011

175. *The pocket guide to Governance in NHS Wales.* The Welsh NHS Confederation, 2009

176. *Understanding governance in the NHS.* Rudrum J. Acca UK, 2007

177. *The Governance Challenge for the NHS Executive Director*. Institute of Chartered Secretaries and Administrators, 2009

178. *Specimen job description: non-executive director NHS foundation trust.* Institute of Chartered Secretaries and Administrators, 2010

179. *Roles and responsibilities of the council of governors – NHS foundation trust.* Institute of Chartered Secretaries and Administrators, 2012.

180. *Specimen statement of expectations from an NHS foundation trust to its governors.* Institute of Chartered Secretaries and Administrators, 2012

181. *Specimen induction programme for NHS foundation trust governors.* Institute of Chartered Secretaries and Administrators, 2012

182. *Building an Exceptional Board: Effective Practices for Health Care Governance. Report of the Blue Ribbon Panel on Health Care Governance.* Center for Healthcare Governance, 2007

183. *Fit and Proper? Governance in the public interest*. Professional Standards Authority, March 2013

184. *Board size and effectiveness: advice to the Department of Health regarding health professional regulators.* Professional Standards Authority, September 2011

185. *Getting on Board.* Bevington J. Stanton P. Halligan A. Cullen R. NHS Institute for Innovation and Improvement, 2004

EDUCATION SECTOR

186. *A Review of Governance and Strategic Leadership in English Further Education.* Learning and Skills Improvement Service and the Association of Colleges, 2009

187. *Challenges for FE college governance and priorities for development: An LSIS perspective.* Learning and Skills Improvement Service, 2012

188. *Strategic governance in a changing climate - staying ahead with the Learning Board.* Learning and Skills Improvement Service, 2012

189. *Achievement and accountability: Report of the independent review of the governance arrangements of further education institutions in Wales.* Welsh Assembly Government. March 2011

190. *Creative Governance in Further Education: the art of the possible?* Learning and Skills Improvement Service, 2009

191. *The English Colleges' Foundation Code of Governance.* Association of Colleges, 2012

192. *Guide for Members of Higher Education Governing Bodies in the UK*. Committee of University Chairs, 2009

193. *University Governance. Questions for a New Era.* Gillies M. 2011

194. *A framework for reviewing academic governance effectiveness.* Leadership Foundation for Higher Education, 2005

195. *Changing Governance.* Middlehurst R. Leadership Foundation for Higher Education, 2012

196. *Governance Challenges 2013.* Pegg M. Leadership Foundation for Higher Education, 2013

197. *How Colleges Improve.* Ofsted, 2012

198. *Governance in the age of austerity.* Mears T. Leadership Foundation for Higher Education, 2013

199. *Stronger Boards. Better Education.* Carmichael N. Wild D. Wild Search, 2012

200. *Who Governs the Governors? School Governance in the Twenty First Century.* Carmichael N. Wild D. Wild Search, 2011

201. *Getting to Grips with Being a Governor. Making sense of governance in Higher Education.* Standing Conferences of Principals, 2006

202. *Revisiting Diversity in Leadership.* Bebbington D. Leadership Foundation, 2012

CENTRAL GOVERNMENT

203. *Corporate governance in central government departments: Code of good practice.* HM Treasury, Cabinet Office, 2011

204. *Corporate governance in central government departments: Code of good practice. Guidance Note.* HM Treasury, Cabinet Office, 2011

LOCAL GOVERNMENT

205. *Elected Member Briefing Note No.10. Corporate Governance.* The Improvement Service, CIPFA, 2011.

206. *Closing the Accountability Gap*. Hughes, P. Governance & Compliance magazine, February 2013

207. *The Code of Conduct. Guide for Members.* The Standards Board for England, 2007

INTERNATIONAL

208. *OECD Principles of Corporate Governance.* OECD, 2004

209. *International Comparison of Selected Corporate Governance Guidelines and Codes of Best Practice.* Weil, Gotshal & Manges LLP, 2008

210. *Netherlands Code for Good Public Governance. Principles of proper public administration.* Ministry of the Interior and Kingdom Relations, 2009