Achieving good governance: A challenge of our time

Full Report

An independent strategic review of governance
in Arts Organisations & Museums commissioned
by the Clore Leadership Programme

Hilary S Carty
David Bryan
Anne Murch

August 2017

Achieving good governance:
A challenge of our time

Full Report

Table of contents

An Executive summary of this report and seperate Appendices relating to it are available to download from the Clore Leadership website.

1   Executive summary

The Clore Leadership Programme, together with a consortium of trusts and foundations[1], has commissioned a review of the governance development needs of arts organisations and museums.[2] The aim of the review is to strengthen the governance of arts and museums by identifying (a) resources which are currently available and (b) gaps in provision which might be addressed through a governance development programme, tailored to the needs of arts organisations and museums.

1.1   Context

Governance is very much in the spotlight, with arts organisations and museums responding to an unprecedented climate of volatility, speed and uncertainty, compounded by public funding cuts and significant competition for corporate sponsorship and individual philanthropy. The current environment presents significant challenges for the boards of cultural organisations.[3] Innovative approaches to income generation are necessary. The demand for 'resilience' has gathered momentum and leadership from the board is crucial.

This research consists of quantitative structured interviews with more than fifty cultural organisations, an open survey (with 238 responses) and additional interviews with a range of strategic agencies. The research findings were discussed at a meeting with strategic agencies and potential partners, who are themselves concerned with ensuring strong leadership and governance within cultural organisations.[4]

---

1   Clore Duffield Foundation, Esmée Fairbairn Foundation, Foyle Foundation, Garfield Weston Foundation and Paul Hamlyn Foundation

2   Not including the national organisations directly funded by the Department for Culture Media and Sport.

3   The terms 'cultural organisations' and 'cultural sector' used in this document refer to museums and arts organisations.

4   Feedback from the discussion is reflected in the report summary.

Survey respondents and interviewees welcome this independent review. It is regarded as both timely and critical, and the desire to improve governance in the cultural sector is widely shared.

1.2   Governance

This report takes its definition of governance as 'the systems and processes concerned with ensuring the overall direction, effectiveness, supervision and accountability of an arts organisation or museum'[5]. For cultural organisations, accountability is complex and nuanced as governance cannot be restricted only to legal and fiscal responsibilities. The board must align its work with the best interests of its communities and stakeholders, to reflect the organisation's broader social, cultural and societal responsibilities.

1.3   What is top of the agenda for boards?

The findings from the research indicate that, although organisations have very different needs, according to their scale and core purpose, the task of *setting strategic priorities* and constructively engaging boards with these priorities is a significant challenge. The current climate demands that organisations are far-sighted and adaptable in their planning and work.

At a time of high scrutiny, alongside the critical need for *advocacy and risk/ reputation management*, is a major issue of how to generate income and raise funds from a broad range of sources in a competitive environment. Ethical considerations must remain in sight, both for fundraising and for recruitment, to ensure board members who understand the value of advocacy, and who are willing to be actively involved in building the organisation's reputation.

The research confirms what was described by a consultee as 'a crushing lack of diversity at board level' in the cultural sector. *Diversifying boards*, like much of the discussion on diversifying audiences and staff, goes full circle. Despondency fuels a self-fulfilling negative outcome. It is time to break the cycle. It is time to tackle the perpetuation of closed networks.

Organisations are challenged to acknowledge the complexity of the task and marshal a robust and sustainable response. It is a long game and quick rewards are unlikely. Attitudes, commitment and energy all need to focus on board recruitment and induction, with a sustained approach to achieving diversity over the long term.

5   Adapted from: Institute of Philanthropy, 2011 The State of UK Charity Boards.

At the heart of every cultural organisation should be discussions on *artistic/ creative vision and programming* and how this promotes audience engagement and learning. Our research suggests that this is given too little airtime at board level. Governance is still primarily seen by many as a fiduciary responsibility, whilst the executive staff deal with matters of content and programme. This often means that the more generative[6] and creative role that trustees can play is overlooked.

The processes of *attracting new members/diversifying the board* reveal the different motivations of trustees and chairs. Potential candidates may wish to support the organisation, but some find the term 'governance' somewhat dry and off-putting. The language and messages used in recruitment should be carefully crafted to ensure a wide appeal, profiling the areas potential trustees would find most rewarding about the role, alongside the responsibilities and duties.

Although *board induction* is generally regarded as necessary across the sector, the style and format appears to vary significantly. Where induction is taken seriously, it provides a foundation for valuable future relationships. Hence, we recommend that a more comprehensive *induction process* is developed by organisations, building on useful resources such as the new Clore Governance Guide.[7] This should include a simple code of conduct that sets out the behaviour and engagement expected from the board.

The traditional skills audit is a fairly blunt instrument, which does not fully describe the range of *trustee qualities and attributes* needed today and in the future. A periodic board review would provide the opportunity for gauging whether and how board members think and act strategically; manage risk and complexity; balance courage with control; demonstrate strong interpersonal awareness; and show effective emotional intelligence – all crucial assets for effective trustees.

Organisational knowledge, gained over time, needs to be balanced with a judicious approach to board *rotation*. Boards will benefit their organisations more through a regular review of succession planning. Opportunities such as patron roles, non-voting membership and advisory positions enable the board to retain the expertise of retiring trustees, rather than simply extending their terms of office.

The culture and management of meetings, board communication and formal and informal interaction are highlighted as critical to *board effectiveness*. We recommend that boards incorporate a periodic review of meeting practices, agenda setting and the number and purpose of sub-committees.

6   See Chait, R., Ryan, W., Taylor, B., (2005) *Governance as Leadership: Reframing the Work of Nonprofit Boards*, Boardsource

7   Clore Leadership Programme (2017), *Governance in the arts and museums: a practical guide*

The chair's role is pivotal to effective board performance. A strong relationship between the chair and Chief Executive provides critical organisational leadership and two-way feedback between the chair and Chief Executive should be a regular feature of this relationship.

1.4   Governance development

Despite the significant number and range of development opportunities available, board members say they have limited time/desire to engage in these. It is important to acknowledge that development needs are not always sufficiently recognised. In addition, organisations may fear triggering conversations that reveal difficult circumstances and uncertainty. This is exacerbated when competition for funding is fierce and, consequently, the stories people choose to share publicly may well be selective. On the other hand, those that have attended board development events in the past or worked with experienced facilitators during away days, report considerable value and learning in these activities.

It is important to recognise that investing in learning opportunities will offset the detrimental costs of ineffective boards and we actively encourage participation in governance development. Providers of board training and development are encouraged to reflect on how to make this both accessible and appealing to trustees and to use these events to promote the outcomes of good governance.

Sessions that can deal with real concerns and be, simultaneously, inspirational and hopeful, will have heightened appeal. Structured face-to-face conversations with others in similar roles will kindle relationships and trust. New relationships based on common interests and concerns will, subsequently, help to extend the benefits of learning, and encourage ongoing peer support.

1.5   Governance structures

The range of legal entities available to the cultural sector has expanded in recent years to include Community Interest Companies (CICs) and Charitable Incorporated Organisations (CIOs), which potentially offer greater flexibility and choice in levels of regulation and accountability. However, in the arts and museums sector, the majority of organisations are working with the dual model of a company limited by guarantee with registered charity status. Our interviews with over fifty cultural organisations give a minimal indication that current governance structures are of concern, and indeed discussion of structures is seen as a distraction from the real change that is needed in board behaviours and culture. Nevertheless, it is important that cultural organisations periodically review their constitutions and models, to ensure these are current and relevant to their charitable purpose and objects.

2   Introduction

*Governance is concerned with leadership and direction. It is about
ensuring your charity has a clear, shared vision of its purpose, what
it is aiming to achieve and how in broad terms it will go about doing it.*[8]

The Clore Leadership Programme, together with a consortium of trusts and
foundations,[9] has commissioned a review of the governance development
needs of arts organisations and museums.[10] The aim of the review is to
strengthen the governance of arts and museums by identifying (a) resources
which are currently available and (b) gaps in provision which might be
addressed through a governance development programme, tailored to the
needs of arts organisations and museums. The brief is included in Appendix 1.

This report takes its definition of governance as 'the systems and
processes concerned with ensuring the overall direction, effectiveness,
supervision and accountability of an organisation'.[11] Governance is more
than financial scrutiny. The language of fiduciary responsibilities abound
in legal explanations of the role and responsibility of boards and while
this is vitally important, it is not what attracts skilled, committed people
to this role. Rather it is the prospect of contributing to the production of
something that contributes to enhancing the quality of life – in this case
our creative lives. Governance is under-acknowledged leadership. The
boards of charitable organisations form the custodians of public benefit
and must reflect the organisation's cultural, social, and societal
responsibilities by aligning their work with the best interests of their
communities and stakeholders.

---

8   NCVO (2015) *The Good Trustee Guide* 15 April

9   Clore Duffield Foundation, Esmée Fairbairn Foundation, Foyle Foundation,
    Garfield Weston Foundation and Paul Hamlyn Foundation.

10 Not including the national organisations directly funded
    by the Department for Culture Media and Sport.

11 Adapted from Institute of Philanthropy (2011) *The State of UK Charity Boards*

Governance is very much in the spotlight. Its importance has escalated in recent years as the drive to have greater independence and decision-making by a wide range of not-for-profit organisations has grown, be they schools, hospitals, social welfare and arts organisations. In the private sector the LIBOR banking scandal continues to grab the headlines; the high-pressure fundraising tactics of some of our best known charities have been scrutinised and found wanting; and the collapse of Kids Company has exposed the results of weak governance, bringing lessons for trustees, professional firms, the Charity Commission and Whitehall.

> *In such a tough environment, trustees' duty to identify and assess risk has never before been more important. Charities with below-par governance standards may well find themselves paying the price in future.*[12]

The current environment presents significant challenges for the boards of UK charities, where the majority of arts organisations and museums reside. Boards are responding to an unprecedented climate of volatility, speed and uncertainty, compounded by decreases in public funding and significant competition for corporate sponsorship, private and individual giving. The demand for 'resilience' has gained momentum. Arguably those with uncertain funding have always had to be resilient, but pressures have reached a new level as funding and financing have declined.

12   Massey, A. (2013) 'Good governance is increasingly essential for charities' in Guardian, 17 September

3　Context

In the wider environment, the impact of continuing austerity measures has taken its toll on local government – significant funders of the arts and museums. In February 2016 *The Stage* revealed that £56 million had been cut from local authority arts funding since 2009.[13] The National Council for Voluntary Organisations (NCVO) forecast that austerity measures will continue until at least 2019/20, citing that

> *The charities most likely to buck the trend are those that have stronger relationships with local politicians and commissioners or are working in partnerships that can deliver services in some areas.*[14]

New Philanthropy Capital (NPC) echoes this approach, advising organisations to

- Build governance and leadership that is focused on maximising impact in the new world
- Respond by rethinking […] resources and relationships to maximise impact.[15]

Austerity has impacted beyond local authority funding, affecting all sources of income including private, and this has increased the expectation that organisations will increase their entrepreneurial and commercial activities. The contraction of local state support is thought by some to provide opportunities for greater independence and enterprise.[16] However, the ability of organisations to be truly entrepreneurial is often constrained by outdated organisational thinking and models, or by an inability to exploit the cultural assets that have moved from local authority management to independent trusts, without the upfront investment to accelerate enterprise and entrepreneurial approaches.

13   Hutchison, D. (2016) 'Local authority arts funding 'cut by more than £56m'. The Stage, 24 February

14   NVCO (2016) *The Road Ahead: Summary edition – A review of the voluntary sector's operating environment*

15   New Philanthropy Capital (2016) *Boldness in Times of Change*

16   McPherson, D. (2015) 'A critic's plea: stop all arts funding now', *Daily Telegraph,* 28 May

> *So arts and cultural organisations need to be effective businesses which are also well-run, fundraising charities. Strong supportive boards are crucial to this.*[17]

With the UK political landscape already volatile, 'Brexit' and continuing uncertainty regarding the UK's future relationship with the European Union has introduced additional ambiguity.

Chait, Ryan and Taylor propose that not-for-profit boards have three broad ranging leadership and governance modes: Fiduciary, Strategic and Generative.[18] Finding time for the enquiry-based generative mode[19] is critical to good governance – creating an opportunity to gaze ahead and marshal efforts for the forward agenda. This enables organisations to better respond to the challenging pressures of survival and stability, whilst developing and securing the means for sustainability in a complex and changing environment. This underscores the leadership dimension in effective governance.

Whilst having to focus very closely on their fiduciary responsibilities, arts and museum boards will, in future, need to develop a more creative approach to risk, programming and organisational innovation in order to thrive. Cultural organisations need to be far-sighted, adaptable and demonstrate a more dynamic and inventive use of resources. The board's leadership role is critical in this.

Many of the external cues that boards encounter will be new and unfamiliar. In response, trustees need to develop a strong sense of their personal responsibility in 'the collective and social act of governance'.[20] So who are the right individuals to make up this supportive, strategic, proactive and dynamic board? Diversity is essential. Not simply the diversity that represents Britain's multicultural communities, but a diversity of skills, expertise, experience and age. Having different personality types is also a vital ingredient in a successful board:

> *the chemistry that makes board meetings energising, challenging and fun depends on the mix of personalities. People that always challenge may be disruptive, but they are an insurance policy against group think.*[21]

17   Sir Peter Bazalgette (January 2017), Creative Industries Federation

18   Chait, R., Ryan, W., Taylor, B., (2005) *Governance as Leadership: Reframing the Work of Nonprofit Boards*, Boardsource

19   Ibid. '…the processes that leaders and groups use to frame problems and make sense of ambiguous situations'

20   Robinson, M. (2010), *Making Adaptive Resilience work.* Arts Council England

21   Bowcock, M. (2015) *Seagulls and carpet slippers – What are Trustees For?*

There is also a clear need to continually refresh and renew sector trusteeship with a cohort of younger trustees who can gain and hone their expertise over time. Boards that include the 'great and the good' will inevitably achieve some desired outcomes, but boards also need to reflect a range of professional skills, alongside an informed awareness of the cultural sector and the specific expertise to support delivery of the organisational mission. The Nolan Principles provide the foundations of good governance, enhanced in Scotland with two additional principles – respect and public service.[22]

This review throws the spotlight on a number of questions regarding governance in the cultural sector today:

- *Congruence:* There may be a stark difference between the story that organisations are prepared to tell and the reality of governance behaviours and practice. How might one peel back the layers to make governance practice more transparent as the basis for developing and sharing what really works?

- *Agility:* Are trustees sufficiently nimble and adept to deal with disruption, financial uncertainty and significant sector volatility? And can they be sufficiently far sighted to anticipate and navigate these challenges?

- *Synergy:* The relationship between trustees and staff can be undermined by a lack of appreciation of the distinct challenges of their respective roles. How best can shared aspirations be built, whilst acknowledging differences in perspective and role?

- *Ecosystem:* How can we proactively create more diverse boards – to reflect communities of knowledge, interest and identity around a common goal? How might we better understand and measure the positive effect of a diverse board in the context of planning, performance and impact?

22 Good Governance Institute (2016) *The new Integrated Governance Handbook 2016: developing governance between organisations (GBO)*

4   Methodology

The brief (see Appendix 1) identifies the Scope of Review as:

- Summary of current governance structures in use in the sector and an analysis of their strengths and weaknesses;
- An analysis of areas of good practice in the practical appliance of governance, and the identification of areas which need to be strengthened;
- An audit of existing training and resources (published and online) that offer guidance to boards and senior executives;
- An analysis of current gaps in provision for governance development, as identified by organisations, funding partners and other stakeholders, and recommendations as to how these can be addressed.

The Review should focus on England and Wales, but include any models of good practice in other parts of the UK (and elsewhere), which might be transferable.

The analysis of good practice in the practical appliance of governance (Chapter 5) is delivered through a qualitative approach based on structured interviews with a target group of over fifty sector organisations representing a cross-section of art forms and arts practices, independent and university museums in England and Wales – see Appendix 2. The interviews[23] probed a range of governance priorities and issues through a structured format, which is included in Appendix 3. The issues prioritised within the target group then formed the basis of wider consultation through an open survey promoted through direct mail, mailshots from sector agencies, Twitter, Facebook and LinkedIn. A total of 238 responses were received. This open survey enabled us to test and develop findings from the qualitative interviews with a wide range of arts organisations and museums. The profile and overview of the sector consultation is included in Appendix 4.

---

23   All interviews were conducted in confidence and no direct quotations have been used without permission.

Further consultation was also carried out with a range of cultural and third sector agencies that provide advice and support on governance to arts organisations and museums – see Appendix 5.

The audit of existing training and resources was undertaken through desk research, highlighting a sample range of:

- Governance Training and Development Opportunities available for Summer through to early Winter 2016 – see Appendix 6; and
- Publications and Resources covering aspects of the governance agenda – see Appendix 7.

These, survey findings, combined with targeted questions to interviewees of cultural and third sector agencies, informed the analysis of current opportunities and gaps in provision for governance development (Chapter 6).

In order to create a summary of current governance structures used by arts organisations and museums (Chapter 7) a detailed analysis of the governance structures of the Arts Council England NPO/MPM organisations was undertaken – see Appendix 8. Opinions vary on the strengths and weaknesses of the different legal entities; what suits the circumstances of one organisation might not meet the complex needs of another. Therefore, we suggest four priority considerations, to support the investigation of the optimal organisational model on a case-by-case basis.

Our conclusions are provided in Chapter 8 and the ensuing Recommendations are outlined in Chapter 9.

Some contextual factors are highlighted for consideration:

a) It is worth noting that the interviews, which form the substantive part of the analysis in Chapter 5, asked respondents to be self-analytical and to critique their board objectively. It is appreciated that some respondents may not have been fully candid in their responses, nevertheless, the range and variety of feedback indicates a healthy level of critical self-analysis and the assurance of confidentiality elicited some frank exchanges, giving good insight into the issues and challenges. These conversations also provided interviewees with (what was oft acknowledged as) a timely moment for reflection on the nature of governance within their organisations.

b) The research took place at a time when the majority of arts organisations and museums based in England were developing their applications to Arts Council England for National Portfolio Organisation awards. Consequently, a significant number of interviewees were in a process of three/four-year thinking and planning with their boards and this might have impacted their responses.

c) Organisations based in Wales were consulted at all stages and their responses form an integral part of the research. Nevertheless it is important to acknowledge some of the distinctive critical challenges being faced in Wales, in particular by museums, who were reported as being 'on a knife-edge' and facing major cuts.

d) In the majority of instances the governance issues and circumstances for arts organisations and museums contain major similarities, hence in the majority of the report the sectors are referred to as one group. Where issues relate more particularly to one area, such as the significant level of local authority divestment of museums, these are separately reported.

e) The terms 'Board', 'Board members' and 'trustees' are used to cover the range of organisational structures including Company Directors, trustees and Committee Members.

The researchers express their gratitude to the significant number of chairs, trustees, CEOs, Artistic Directors, strategic agencies and other leaders who contributed fully and with interest to this review. Their support with this research highlights the priority they place on governance and the desire to improve provision both individually and within their organisations.

Thanks also to Rebecca Coletto for the invaluable research and data review support.

The Clore Leadership Programme and researchers gratefully acknowledge the contribution made by the steering group for this research, including David Hall and Prue Skene CBE.

5 The practical appliance of governance

The analysis of good practice in the practical appliance of governance is delivered through a qualitative approach based on structured interviews with a target group of over fifty sector organisations (see Appendix 2), and a wider sector survey (see Appendix 4). This consultation probed a range of governance priorities and issues form the perspectives of trustees and senior leadership teams.

Although interviews and sector consultations revealed a broad range of responses, there is significant alignment across certain themes and these are explored below, covering four key areas:

5.1   What is top of the agenda for boards?

5.2   Other priorities on the agenda

5.3   Attracting and retaining trustees

5.4   Achieving effective engagement, relationships and behaviours.

5.1   What is top of the agenda for boards?

Both the qualitative interviews with the cross-section of organisations and our wider sector consultation highlight that the top three governance priorities requiring attention from the board are Fundraising, Setting long-term strategic priorities and Advocacy.

TABLE 1   Top agenda items for boards

	STRUCTURED INTERVIEWS	SECTOR CONSULTATION
Fundraising	65%	43%
Setting long-term strategic priorities	44%	70%
Advocacy for the organisation	43%	37%

Our own observation of what challenges boards most acutely is constructive engagement in setting strategic priorities, at the right level. Other high priorities are the critical need for advocacy and reputation management, particularly at a time of high scrutiny, and the broader income generation agenda, which sits alongside the urgency to fundraise.

5.1.1   Setting strategic priorities

> ...less than half of charity board members and chief executives think that trustee boards concentrate on strategic issues and the external environment[24]

A significant 70% of sector consultees highlight setting strategic priorities as top of their board agenda. It is revealing that only 9% of respondents highlight a planning framework beyond 5 years.

The impact of Arts Council England's NPO round, and the priority to secure four more years of ACE investment, might be influencing this outcome and encouraging short-term expediency over cultural transformation. The search for funding may skew the board's attention to historical evidence gathering and reporting rather than towards the creation of a genuinely visionary ambition for the organisation. In such instances, governance is not about autonomous leadership but is rather, by default, focused on funder reassurance.

24   OnBoard (2015), *Governing with Intent*

In the good practice examples shared with us, the chair and/or CEO work together to lead board discussions and review performance in line with strategic priorities. Interviewees report that their trustees are mostly good at asking questions about the specific reports they receive, but less skilful at asking the crucial and generative questions that will help their organisation adapt to meet future challenges.[25] If the public benefit is best served by a cultural organisation's holistic long-term aspirations and vision, these need to include more exploration of potential partnerships and new alliances, which could result in unexpected lucrative ventures. For instance a festival becomes an owner of a venue, or a theatre purchases the nearby library, or office block. There are implications here for decisions about who is involved in organisational governance, and whether that group is accessing a sufficiently broad range of expertise/perspectives.

Battersea Arts Centre & Wandsworth Museum

In Spring 2016, Battersea Arts Centre (BAC) took over the management of Wandsworth Museum's collection, with two of its former trustees joining the BAC board. In this strategic coupling, the heritage of the borough is now inspiring BAC's 'Moving Museum' programme which is itself benefiting from the experimental 'Scratch' process developed by BAC that is intrinsic to its theatre producing role. The partnership has provided a new business model and strategic diversification for both organisations.

We encourage boards to embrace a rich pool of knowledge, viewpoints and expertise to stimulate and inform their debates, drawing upon external opinion where needed to broaden perspectives.

During the recent period of relative economic stability, organisations became accustomed to steady incremental growth, and robust long-term planning may have been relaxed in favour of 'steady state' outcomes. Now, in a more volatile context, space needs to be created within the boardroom agenda for strategic debate and chairs must ensure that short-term operational matters do not persistently obscure the long-term strategic development.

25 Chait, R. (2004), *Governance as Leadership, Bringing new governing mindsets to old challenges*, Taylor

5.1.2   Fundraising

In the current financial climate, it is understandable that fundraising is amongst the top of organisational concerns; where organisations are engaged in a significant capital project, achieving funding targets become the major preoccupation for the board. Respondents articulate the need to move away from short-term, project-based fundraising, in order to secure a stronger, long-term foundation and increase unrestricted income. In practice, however, the immediate horizon remains the preoccupation for a majority of organisations.

Boards of large organisations generally undertake fundraising activities themselves or delegate this to a development sub-committee. Attitudes and capacity are more variable within middle and small-scale organisations, where board engagement with fundraising is (for the most part) less embedded. Whilst the larger organisations have staff and systems in place to support this area, fundraising expertise is less common within smaller scale organisations.

Several boards are averse to what they perceive as a narrowly defined American–style 'Give, get or get off' approach and question the require-ment for proactive board involvement in fundraising. Here, board members, in the main, perceive themselves as insufficiently networked to stimulate or capitalise on fundraising opportunities, whether locally or nationally. Training providers confirm the significant challenges of persuading board members to understand and fully deliver this critical area of board business. Board members will give of themselves and who they know, once the trust bond has been established. However the real challenge is being proactive – getting! This requires an in-depth imbibing of the strategy and willingness to promote and be a visible advocate.

> *There is no such thing as a 'culture of giving'. Instead we need to create a 'culture of asking' inside our organisations... Without the active involvement of directors and board members you won't get very far.*[26]

Responding to the exigencies of our time, the proactive engagement of the board in fundraising is now an imperative of the 21 Century and we strongly advocate that arts and museum boards take steps to maximise their fundraising capacity and capability. 'Giving' can take many forms: providing expertise (or facilitating access to expertise), making connections, brokering new relationships, providing endorsements, advocacy and time to support the executive team. The board member must actively 'network' for the organisation, to foster a broad constituency of support and resources.

26   David Dixon (December 2016), Arts Professional, *Myths or Excuses?*

Biggar Museums Trust

Biggar Museums Trust, a largely volunteer run museum on the Scottish borders, was awarded Museums Galleries Scotland's Enterprising Museums Award in March 2016. On the brink of a major £2.2 million capital development in 2010, the museum's founder sadly died, and the chairman and board of trustees stepped in to lead the development campaign. Although they were successful in securing several large grants and agreed to invest over £400,000 of the museum's reserves in the project, the application was turned down on three occasions by HLF, which was a major setback. In response, the board turned to their local community to plug the gap and they have been hugely successful in attracting local donations from the people of Biggar and rural Upper Clydesdale – over £730,000 was raised in this way, which shows extraordinary backing. This effort was driven through necessity; in persuading local people to invest, the community now has a stake in the enterprise. In this way, the board is ensuring the museum's continuing success and sustainability with local engagement at its heart.

LEADING BY EXAMPLE

Three organisations in our qualitative sample advocate for all board members to make a financial contribution to the charity, however small, according to their means. In the view of one CEO 'I need to be able to stand up in front of a funder and say that the board all give – to look people in the eye. It makes a big difference'. We support the principle of board members contributing in support of the fundraising effort. Contributions will vary according to means, but the principle is important.

> It's my personal view that every board member should give something, even if it is just a pound, so that they are not asking others to do what they themselves are not.[27]

INCOME GENERATION – NEW MODELS AND WAYS OF THINKING

Respondents identify the need to adopt more commercial and entrepreneurial approaches to income generation. Over the past eight years, austerity has become the 'new normal' forcing a recalibration of priorities and actions to more effectively engage with resilience and enterprise. Organisations that have historically relied on public funding are grappling with the demand for a mindset shift towards proactive income generation and reduced reliance on public investment.

27   Sir Peter Bazalgette (2016)

Across Arts Council England's National Portfolio, income from supplementary activity (commercial activities, and other revenue streams – cafes, restaurants, car parks, merchandise, services and skills) has grown by 75% between 2012/13 and 2015/16.[28] Citing 'entrepreneurial flair' as the key differential, Sir Peter Bazalgette applauds good examples of catering and retail, commercial tenancies, creative bed and breakfasts, and commercial recordings as successful initiatives that generate income to support arts activity. Creative approaches to income generation, with digital opportunities, and thinking laterally about the income generating potential of cultural and heritage assets are all part of this emerging entrepreneurial approach.

A key challenge for boards is how to attract suitable trustees with entrepreneurial, digital and commercial expertise, who can appropriately apply this experience within a cultural context and take due account of the organisation's charitable purpose. More inventive means are being explored, whether inviting local communities to invest or embracing an entrepreneurial venture. Income generation needs to be cast more comprehensively around a broad and complementary palette of skills, knowledge, political astuteness, strategic thinking, community networks, credibility with diverse communities of interest, etc., so that the most eclectic and dynamic approaches and ideas can stimulate the generation of income over time. Diversifying the board's spectrum of experiences beyond 'the usual suspects' will require that the board has a comprehensive narrative about what it does, why it does it, who are the beneficiaries and the multiple nature of the impact?

> *Lots of people don't understand what differentiates*
> *a commercial from an arts board*
>
> Board chair, Festival

Responding to that challenge requires effective recruitment and induction. See 5.3 below.

---

28   Sir Peter Bazalgette (previous chair of Arts Council England) (2016), 'The Business of Arts,' speech to *Creative Industries Federation*, 11 November

5.1.3   Advocacy, influence and reputation
43% of interviewees and 37% of survey respondents identify advocacy as a priority for board attention in the current environment.

As funders, local authorities and charitable foundations demand explicit alignment with their own priorities and outcomes, trustees need more than ever to be able to articulate the value and relevance of their organisation to a diverse range of stakeholders. Proactive reputation management requires trustees to be informed about actual and potential points of controversy and to understand the importance of responding sensitively. Collections dispersal, controversial sponsorship or the treatment of historical events could all bring the organisation into the public/media spotlight and it is important that board members are not made vulnerable by being caught unawares.

Recruiting board members to be advocates, who understand the value of advocacy and who are willing to engage, in a wide variety of settings, to build the organisation's reputation is, in our view, essential. An example of good practice is where boards receive regular updates between meetings, including briefings on the social impact and value of activities. But this practice is not yet widespread and we recommend regular and targeted board member briefings so that trustees can be confident to communicate headline messages/outcomes to influential stakeholders.

> *Outward communications is key. The board needs to have a full and up to date understanding of the key messages, values and priorities, so they can be strong advocates – we need them to trumpet what we have done to key stakeholders.*
>
> CEO, Theatre

In terms of available resources, information and perspectives on key sector issues, facts and figures about the value of public investment in the arts and culture can readily be sourced through reports on strategic agency websites. In addition, Arts Council England has produced a toolkit[29] with focused resources to underpin both the development and dissemination of key messages.

Patron, Membership and Friends schemes can support organisational advocacy, and former board members may wish to retain their association with the organisation in this way. National Theatre Wales, for example, draws on the membership of their Council to share key advocacy and progress messages. With the help of focused briefings, informed supporters can become champions for the organisation and positively reinforce organisational messages about ambitions and achievements.

---

29   Arts Council England toolkit: Make the case for art and culture

5.2   Other priorities on the agenda for boards

Two other priorities ranked highly in the sector consultation:

- Board Diversity and
- Artistic/Curatorial vision and direction.

5.2.1   Board diversity
35% of interviewees and 14% of sector consultees identify achieving board diversity as a priority concern in the current environment. Respondents articulate the importance of a diversity of *ideas* and it was encouraging to learn that:

- A number of organisations had recently chosen to appoint younger people (aged 19–25) to refresh the dialogue at board level and make the board's composition more reflective of the organisation's user groups. Both trustees and CEOs affirm that having younger people on the board is resulting in two-way learning.
- Several of the larger scale organisations, report that gender and cultural diversity can usually be achieved.
- However, ensuring age, intellectual, disability and socio-economic diversity remains a challenge.

The majority of sector organisations continue to struggle to appoint a diverse board. For some, the priority is to secure contributions from more women, younger people, or lower socio-economic groups, but in the majority of cases, achieving cultural diversity is the main concern. For disability-led organisations, the issue of diversity is equally acute but takes on an additional tension as they struggle to find individuals with both the arts/museum/charity sector knowledge *and* direct knowledge/ experience of disability.

Diversifying boards, like much of the discussion on diversifying audiences and staff, is permeated with an air of resignation that this challenge will remain unresolved. Rather frustratingly, this despondency feeds on itself, thereby creating a self-fulfilling prophecy.

It is time to break the cycle. Organisations need to acknowledge the complexity of the task and marshal a robust response; to stop expecting quick outcomes and early rewards. Just as the challenge has evolved, so too must strategies for success be evolved. Attitudes, commitment and energy all need to accelerate.

At recruitment stage, organisations express a lack of access to culturally diverse candidates, noting that their own networks are limited. At the extremes, boards are 'closed' groups recruiting from a narrow pool of 'insiders' subtly or otherwise excluding those who are different, by class, race and gender etc.... We need boards to be more porous in attracting and accepting divergent voices and different perspectives.

So perhaps the issue is one of mindset and commitment rather than logistics? In the age of the Internet, easy access to an eclectic range of interest groups is achieved at the click of a mouse. If one starts from the firm belief that diverse networks of professionals (in law, finance or banking for example) do exist, then the challenge is not how to find them (smart internet search and networked introductions are easily done), but how to forge genuine relationships on which to build trust.

In a similar vein, special initiatives aimed at breaking down barriers to entry may be ineffective and result in marginalisation as they create discrete boxes for 'diversity', 'skills' and 'knowledge'. To be caricatured as the 'diversity specialist' diminishes the hard-gained professional expertise that candidates bring to the table. One agency noted that diverse trustees trailed away from appointments that had failed to capitalise on their full range of skills and expertise. If appointees are given an impression (and therefore led to think) that they are token appointments, this will often result in disengagement, poor attendance and adverse impressions.

As with all interpersonal development, relationships are nurtured through rapport, which is built up over time. Establishing new relationships with individuals and groups needs to happen through a variety of engagement routes – perhaps by starting as a member of a development board or advisory committee – or through making an ad hoc contribution around an area of expertise. A cold call invitation to sign-up is rarely a successful strategy.

To achieve best practice in diversity, we recommend that board recruitment, induction and engagement all require focused strategies that harness existing best practice. Achieving diversity requires a sustained, holistic approach – one that reviews the existing culture of the board and considers making adjustments to achieve a successful environment for individuals who do not yet 'fit-in' – acknowledging that is part of the USP they bring to the board.

The example of Voluntary Arts is instructive. The agency did not seek a quick-fix for an entrenched diversity challenge, but rather, created a long-term strategy for engagement, which has reaped notable rewards.

Voluntary Arts Network

Voluntary Arts (VA), very recently embarked on a process of developing institutional understanding of racial diversity, linked to its work plans, and set up an advisory group to think aloud, about translating different insights into organisation, practice, awareness and policy. From this process VA decided to recruit four members from non-white ethnic and cultural groups at their recent AGM.

Voluntary Arts has moved, in a short space of time, from a position of embarrassment about its lack of ethnic diversity to a confidence that it is pioneering a new approach to developing strong, effective connections to a range of BAME communities. The organisation is clear that it is still only at the start of a journey but that first step, which allowed Voluntary Arts to break its cycle of inactivity, has been fascinating, inspiring and great fun. I hope our experience might act as a model for other organisations facing a similar challenge.

Robin Simpson, CEO, Voluntary Arts (2016) 'Open Conversations: Developing strong, effective connections to Black, Asian and Minority Ethnic communities'

At present, neither agencies nor funding bodies demonstrate confident support for diversity at the governance level. Whilst Arts Council England's NPO Survey asks organisations to outline the diversity of the board, there is no proactive encouragement to engage with this as a priority – the governance case for diversity remains unwritten. We recommend, therefore, that a strategic, cross-sector matrix of support tools is created: case studies, models of good practice, abstracts and reflections from high-profile diverse individuals etc., initiated through a collaboration of key agencies. The Arts Councils in both England and Wales, should demonstrate strong leadership in developing resources to strengthen diversity in governance, promoting models of good practice and championing this agenda as part of their strategic goals and priorities.

5.2.2   Artistic/Curatorial vision and direction

The issue of creative vision and direction, whether artistic or curatorial, raises complex and even contradictory dilemmas for consultees. Whilst this subject is at the heart of any cultural organisation's mission, the creative direction seems to be given relatively little airtime at board level, being placed amongst the top three priorities by only 22% of respondents to the sector survey. The structured interviews with chairs and CEOs gave greater insight into this, reflecting that, while enthusiasm for the art/ collections may be the initial hook for attracting new trustees, the challenges of financial resilience, commercial priorities, operational risk and organisational change take precedence in board discussions. Some

organisations fear that the pendulum towards business and commercial skills has swung too far and, in so doing, creative expertise/opinion has been sacrificed.

A number of CEOs and Artistic Directors *prefer* to concentrate board debate at the operational/performance review level, rather than invite a critique of the creative programme, which they consider to be 'off limits'.

The challenge is compounded where the senior role is split between general and artistic leadership. In such cases the CEO will often act as a filter and the Artistic Director may be quite remote from the board. For instance, one board chair was determined to engage the Artistic Director more fully in the interests of the business '... he would rather keep it [artistic programming] as a separate empire – he needs to come to the party so we can all sort out the finances together'.

The high profile early departure of the artistic director of the Globe Theatre raises questions about the clarity and depth of exchange regarding the Globe's ambition, purpose and programme at interview and induction. It is instructive that such divergent perspectives as reported in the media,[30] do not appear to have been addressed at an earlier stage.

Boards may tacitly endorse this distancing of the creative/curatorial agenda by not probing/having the confidence to probe with crucial questions about the organisation's core business. Artistic and curatorial ambition cannot be off limits for a body accountable for organisational purpose.

Failure to place artistic and curatorial debate in context and consider this fundamental business priority at board level can limit the board's awareness of related risks and possibilities. This may impact on their strategic analysis, reduce the appetite for creative risk, inhibit informed judgement and impair the effectiveness of the board's advocacy and fundraising activities.

It is our view that the artistic/curatorial programme remains at the heart of cultural organisations, and is central to both the vision and purpose. Therefore, we recommend that the artistic/curatorial programme is regularly and strategically discussed by the board. This means that the board (and/or subcommittee) has a range of appropriately informed artistic/curatorial expertise to critique and engage with the creative agenda as 'support' rather than 'interference'.

---

30   Emma Rice to stand down from the Globe as board choose to return to old style, *Evening Standard*

5.3   Attracting and retaining trustees

5.3.1   Board recruitment

A number of organisations (particularly large and middle-sized) hire specialist recruitment firms for board appointments. Alternatively, the staff face the challenge of researching, attracting and securing talented and experienced individuals themselves. By using a combination of advertising and appeals to professional networks to source new trustees. It is apparent that the professional networks appear to consist of a limited pool of individuals perceived to have the 'right' skills and experience for board roles. These individuals then rotate from board to board as they increase and extend their confidence and networks. These pools of people result in what can become closed clubs of like-minded individuals that are not porous or 'open' to others from different social or cultural backgrounds. This recycling of individuals obscures the potential contribution of others and perpetually validates the usual suspects.

Within high profile organisations, it is easier to attract new, well-connected candidates from different backgrounds because of their reputation and the desired association with a key institution. Less established boards report a harder task in recruiting trustees.

Organisational knowledge, gained over time, needs to be balanced with a judicious approach to rotation and recruitment. The majority of boards adopt a rotating cycle for membership renewal, most typically two terms of three or four years, with the option of a third term for extenuating circumstances. We support this good practice as it ensures renewal and refreshment of boards and enables long term planning for board development. It is, however, important to be mindful of the cyclical departure of organisational know-how and the ensuing impact on board effectiveness. We advocate that succession planning should be instituted and reviewed by the Nominations or HR Committee/chair and Chief Executive at least on an annual basis to guard against this collective loss of experience, whilst ensuring that new perspectives are injected regularly. Opportunities for trustees to maintain engagement upon retiring from boards, include Patron roles, non-voting membership, honorary and advisory roles, which all provide strategic ways to retain expertise.

We recommend that the board undertakes and responds to periodic reviews of its membership in line with its longer-term plans. Skills audits are sometimes conducted across the sector, as a funder facing 'requirement' rather than as a strategic tool for organisational development and change. In reviewing skills, boards can favour a 'like-for-like' search, renewing the specific role rather than reviewing the broader board composition. The traditional skills audit is a fairly blunt instrument, which may not describe the qualities that trustees need today and in the future, hence, the periodic review should include an assessment of a range of qualities and attributes required by a successful board. Requirements should include the ability to think and act strategically, to manage risk and complexity, balance courage with control, demonstrate strong interpersonal awareness, communication skills for effective engagement with diverse stakeholders, and good emotional intelligence – all important assets for the trustee role.

> *The board is fine for now. We do though have to consider the evolutionary needs of the future. Will this be the right shape board for five year's time? We have to keep asking the question.*
>
> CEO, Dance

Whist some newly recruited trustees 'arrive' with the experience and capacity to contribute effectively, it is important to ensure the recruitment process is sufficiently thorough for all parties to identify gaps in expertise, experience or knowledge, and thus avoid making ill-informed assumptions. A clear and concise outline of board responsibilities and accountability should be communicated to all trustees at the recruitment stage so that these underpin the nature of the relationship and avoid future surprises.

5.3.2   Board Induction

Although board induction is generally adopted as good practice across the sector, the detail and approach to this varies significantly. In some instances, induction may simply take the form of an informal 'chat' with the chair/CEO and to be issued with a copy of the current business plan. In good practice examples, formal induction packs or handbooks are used to share a fuller organisational briefing. In addition, attention is usually drawn to the Nolan Principles[31] and the Governance Code[32] to encourage behavioural and ethical awareness. The opportunity to meet senior staff and experience something of the daily life of the organisation helps to deepen engagement. Organisations that place a high emphasis on induction see this as the start of a valuable relationship.

The question is often raised as to how best to introduce trustees from a business background to the nuances of the cultural sector so that they can play a constructive role from the start. This works both ways. One chair also reflected on the need for CEOs and Artistic Directors to develop their understanding of how commercial boards operate, so they are better equipped to work with new trustees from those sectors.

The pilot Clore Governance Guide sets out a full list of contents for an induction pack. We recommend that organisations draw on this to develop a comprehensive suite of documents that can be shared as part of an *Induction Process* to properly introduce new board members to the organisation. Setting up conversations with staff to provide insight to important aspects of the organisation's work will establish a firm foundation for strategic engagement with the organisation's purpose, priorities and personnel. Occurring over the first set of meetings, the Induction Process should encourage questions back to the chair/CEO. Offering new trustees an opportunity to have a 'Board Buddy' may help them to grasp the nuances of the organisation's culture beyond the early meetings and after completion of the formal induction process.

31   The 7 principles of public life

32   Code of governance PDF

5.4 Achieving effective engagement, relationships and behaviours

The culture and management of meetings, board communication and formal and informal interaction are highlighted by almost all interviewees as critical to board effectiveness.

> *The reality is that it takes sustained effort and investment to build good governance. It is a long term endeavour and is as much about culture as it is about resources.*[33]

We explore two priority areas below:

1   The operation of the board
    Culture and management of meetings
    Managing sub-committees
    Reviewing board performance

2   Board relationships and behaviours
    The role and performance of the chair
    Essential skills/qualities of an effective trustee
    Managing the board – the relationship of Chief Executives to the board.

5.4.1 The operation of the board

THE CULTURE AND MANAGEMENT OF MEETINGS

When working well the board will have similar dynamics to that of an executive leadership team. Board members engage most regularly with the organisation at board meetings and it is critical to ensure that the culture and management of the meetings are reviewed regularly. Interviewees shared frustrations with the progress of meetings but did not always correlate the outcomes with the initial agenda setting or the meeting culture that had developed over time. Board meetings require active management and the practice of working with a standing agenda, can mean that the bigger, more strategic questions are relegated in favour of 'business as usual' items. This, in turn, can restrict the participation and engagement of individual board members who struggle to find ways to make meaningful strategic contributions when the format or flow of the meeting constrain debate. Clearly, the role of the chair is key (see 5.4.2 below).

---

33   Association of Chairs (2016) *Submission to House of Lord's Select Committee on Charities*, chaired by Baroness Jill Pitkeathley

Negative outcomes of poor meetings management
include board members:

- Delving into detail at an inappropriate level
- Challenging staff without taking the time to be constructive
- Focusing on receiving rather than responding to reports
  from the Executive, even when sent in advance
- Avoiding the challenge of addressing difficult issues
  or conflicting opinions

*It is difficult to get this right all the time… small details
can so easily dominate the agenda.*

CEO, Dance

Building the board as a team goes a long way towards the challenge of achieving effective meetings. We need to be mindful that four meetings a year provides limited time to establish the familiarity and rapport required for effective communication and decision making. Yet, it is important not to make exhaustive demands on this key group who contribute on a pro bono basis. The solution may not be simply to increase the number of meetings, although a number of boards now meet six times a year, partly to address this and to enable them to deal with a growing volume of business. We recommend a periodic review of:

- Agenda setting – for prioritisation, discussion and engagement
- Board culture – the level and nature of member attendance,
  contribution and group interactions
- Membership of committees/task groups
- Blend between fiduciary reporting and generative discussions.

MANAGING SUB-COMMITTEES

Over 80% of interviewees consider the work of board sub-committees to be an effective method for reviewing detail on priority workload areas, accessing particular expertise and reviewing detail at a level that might not be afforded amidst a crowded board agenda.

*We get high value from our board – and a fresh perspective… we target
individual trustees for specific bits of help – this is a good learning
opportunity for senior staff*

Chief Executive

Sub-committees, like the formal board meetings themselves, require both management and servicing: scheduling; coordinating diaries; producing agendas, papers and minutes etc. This issue is particularly acute for small-scale organisations and those with small numbers of paid staff that may rely on trustees' professional advice or support in areas where there is no paid expertise. Servicing sub-committees can add considerably to the workload of the Chief Executive or Executive Team and it is important to assess the proportional benefit relative to workload. Is each committee really needed/effective or has the original benefit been surpassed? Might a direct approach of drawing on expertise from individual trustees achieve equally valuable results?

When a management committee or finance and policy committee is established, this can create a hierarchy within the board and result in a small group recommending decisions that the board is then asked to rubber stamp. It is important that the chair is mindful of this possibility. With the appropriate checks and balances, limiting the number of committees can prove strategically effective:

> *We only have one sub-committee – Finance and Human Resources and it is worth its weight in gold. It has a stellar membership with the right experienced personnel and meets 10 days before the board so we can have confidence that the detailed review of key areas is being effectively delivered.*
>
> Chair, Combined Arts (Small-Scale)

We recommend that boards review and assess the efficacy of existing committees and, where appropriate, make better use of the board's expertise in time-limited task and finish groups, focused on priority topics. This more targeted way of working can also help to build trustee familiarity with specific aspects of an organisation's business whilst drawing effectively on relevant professional expertise.

REVIEWING BOARD PERFORMANCE

Attitudes to reviewing Board performance are mixed across the sector, with only 37% of those who responded to the survey (see Appendix 4) conducting a regular review. In addition, there is wide variation in the form of these reviews or appraisals, from having a 'conversation with the chair' or a light-touch self-assessment form, to an extended formal questionnaire completed on an annual basis.

Strategic agencies note a distinct reluctance on the part of arts organisations and museums to engage in board reviews, which they cite as being more common in the wider third sector. Since the demise of Kids Company, however, a 'heightened sense of fear' has driven the sector to embrace performance review as a safeguard against challenges from funders and other external stakeholders. The absence of a review, denies the board a structured opportunity for reflecting on its achievements and effectiveness.

In several cases, the conversations and questions from this Independent Review have acted as a spur in raising awareness of the benefits and potential processes of reviewing board performance. Hence, for some boards it is now on their agenda for the first time.

We recommend that boards set in place the mechanisms to review performance, appropriate to the size and scale of the organisation. The basic requirement would enable assessment and feedback on individual board member contributions and effectiveness, as well as the effectiveness of the board as a whole. Feedback to the chair should form part of this review. All feedback should be non-attributable and discussed with the entire board to inform and develop better practice. The pilot Clore Governance Guide provides an easily accessible range of questions that can form the basis of a board review. Additional resources include Top Ten Governance Questions published by Mission, Models, Money[34] and the AIM Hallmarks Governance programme.[35]

5.4.2   Board relationships and behaviours

THE ROLE AND PERFORMANCE OF THE CHAIR

It is widely acknowledged that the chair plays a crucial role in effective board performance; setting the tone, demonstrating effective leadership, modelling good trustee practice, encouraging engagement and developing a positive culture, are all areas contingent on chair behaviour and influence. The sector consultation highlighted the top three essential skills and qualities of the chair as:

- Advocacy for the organisation
- Establishing good relationships with the board and
- Meeting management.

  Another important ingredient of improved board dynamics – and an improved board – is an effective chairperson, who runs meetings well, establishes a culture of trust and constructive discourse, and invests in training, development and feedback. Good leadership sets the tone for the board as a whole and can set the stage for a more effective, value-enhancing board.[36]

---

34 Top Ten Governance Questions published by Mission, Models, Money

35 AIM Hallmarks

36 McKinsey & Company (2017) *Toward a Value-Creating Board*

The relationship between the chair and CEO is also key. In *Governance Now – the hidden challenge of leadership*, former CEOs Roy Clare CBE and Graham Devlin CBE liken the relationship to 'a doubles tennis team, where partners are playing on the same side but taking responsibility for different parts of the court'.[37]

> *We have a friendly and honest relationship but availability is not great.*
>
> Chief Executive

Our interviews revealed that, where the relationship is good, CEOs would like more time with their chairs. Where relationships are less effective respondents tend to focus on either the chair's lack of availability or a desire to shift the role of the chair to be more active and outward facing rather than inward-looking and interventionist. More time is needed on the 'cheerleading' as opposed to the 'policeman' role.[38]

We recommend that chairs acknowledge the significant impact of their role and behaviours on the governance of organisations and take steps to ensure effective performance. This will include obtaining feedback from other trustees and the CEO/Leadership team as well as assessing their contribution against that of their peers. Some organisations appoint a senior board member or vice-chair to lead an annual appraisal for the chair. Keeping informed of developments in arts organisations and museums, participation in sector-wide events, strategic debates and key networks, all offer opportunities to develop the chair's performance. More focused support can be found through networks such as the Association of Chairs, the NCVO annual conference, or participating in the various development opportunities aimed at improving governance (see Chapter 6.2 below).

ESSENTIAL SKILLS/QUALITIES OF AN EFFECTIVE TRUSTEE

Respondents are clear that the effective trustee is someone who understands the strategic imperative of their role, is responsible and accountable and can demonstrate strong support and advocacy for the organisation. The financial and operational challenges of the current climate have placed a premium on influential people, with the political savvy to flexibly navigate the cultural landscape, who have the experience and confidence to negotiate and build strong relationships with an increasing variety of stakeholders. Influence is however not just about leveraging power and resources but also requires harnessing support from within the constituencies served.

37 Cultural Leadership Programme (2009) *Governance Now: the hidden challenge of leadership*

38 Mackay, C. (2012) *Report on the Working Group on Board Effectiveness in the Cultural and Heritage Sector*. DCMS (unpublished) 16 October

Several interviewees highlighted the need for a more universal understanding of the difference between the board and executive leadership responsibility and it is generally good practice to observe clear distinctions about the two contributions. We agree with the perspective put forward by Voluntary Arts that, in certain circumstances, a rigid separation of roles might not be pragmatic and strategic flexibility is required. In organisations where there is no paid staff, where the core staffing team is small, or where an organisation is in crisis, the skills and expertise of individual board members can make a distinct difference to organisational effectiveness. What is essential is the need for clarity of understanding regarding the nature of the role being delivered; where it crosses into areas of 'executive' responsibility, and the length of time that this additional activity will be necessary. Issuing a formally styled written notice of the above will provide clarity for all parties and reduce the perception of 'overstepping' or interference.

> *Trustees need to strike the right balance between allowing the executive to manage the organisation and supporting effective strategic decision making. All trustees need to act as proactive advocates for the organisation in their different spheres of influence.*
>
> Chief Executive – Dance

Unsurprisingly, a wide range of essential skills and qualities are identified for being an effective trustee, reflecting the varied needs of different art/ museum clusters and priorities. We strongly endorse the core requirement for good

- listening skills
- advocacy
- commitment and
- ability to offer constructive challenge.

In addition, those we consulted seek trustees who demonstrate:

> *Conscientiousness – reading and thinking about papers in a strategic manner.*
>
> Board Director/trustee, Museum

> *Willingness to tackle serious issues and press for action.*
>
> Company Employee, Visual Arts

The issue of payment to trustees is one that rears its head in various discussions. Within arts and museums, payments to trustees are very rare, despite the significant demands on time and commitment. Whilst there may be exceptional cases that organisations might put forward, we tend to agree with the view of the Association of Chairs:

> *In our experience payment is neither a pre-requisite nor a guarantee of professionalism. More important are the necessary attitude, competence and skills; and access to support and development when needed.*[39]

Collective discussion and agreement of behavioural norms help to reinforce effective performance. At Cornwall Museums Partnership, board members sign up to a bespoke Code of Conduct, whilst ICSA best practice boardroom behaviours[40] include: a clear understanding of the role of the board; the questioning of assumptions and established orthodoxy; rigorous debate; and a supportive decision-making environment.

We recommend that organisations develop a simple code of conduct that reflects the expectations for board engagement and that this is added to the information shared through both recruitment and induction processes.

Boardroom Behaviours

·   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.

ICSA, The Governance Institute

39   Ibid

40   Institute of Chartered Secretaries and Administrators

MANAGING THE BOARD – THE RELATIONSHIP OF CHIEF EXECUTIVES TO TRUSTEES

The Kilfinan Group (of senior business people who provide free and informal mentoring to charity chief executives) identify, through their mentees 'handling the board' as the biggest challenge.[41] Our interviews with cultural sector Chief Executives endorsed the view that the effectiveness of their relationship with the chair was a key determinant of good governance. Of those who took part in the structured interviews, 80% identified a good or satisfactory relationship between the CEO and chair, citing honesty, openness, trust, regular communication, and a shared strategic imperative, as critical.

Long-standing CEOs make a link between their own maturity in the role and a strong and healthy interaction with their board. A willingness to be challenged requires trust and experience, built up over time. Chairs endorse that confidence in their CEO is a crucial element of a successful relationship and we recommend that chairs put in place systems to appraise the CEO on an annual basis, as well as creating opportunities for regular formal and informal exchange.

> *Of course, the board has to monitor and control but to be really effective, two things stand out as particularly key to successful governance:*
>
> · *Focus the board on organisation purpose and direction, spending time on what matters.*
> · *Build a sense of inclusiveness – within the board and between the board and the executive – so that everyone feels involved, valued and respected.*
>
> Charles Mackay, Chair, Holland Park Opera,
> cited in *Governance Now* (2009)

The Chief Executive plays a crucial role working with the chair to lead and manage the board and set meeting agendas. For first-time CEOs, or those new to the sector, learning how to work with a board of trustees is a vital development need. A number of interviewees had attended training events organised by the Clore Leadership Programme and engaged with the resources and briefings from the Association of Chairs, on the subject of the relationship between the chair and CEO. There was much enthusiasm for the support in developing and maintaining this critical area of governance leadership and we advocate that CEOs undertake training on the various aspects of board regulation and management (see 6.2 below) as well as joining a peer network to gather lateral support on a more informal and ongoing basis.

41   Bowcock, M. (2015) *Seagulls and carpet slippers – What are Trustees For?*

6   Governance development

Feedback from arts organisations and museums reveals no consensus regarding the desirability of or need for governance development. Opinions vary according to individual preference and regardless of sector, scale or governance structure.

Those not in favour of governance development cite:

- The absence of appetite for 'training' often because board members bring with them experience from other boards/sectors

- The desire to safeguard limited trustee time for priority meetings or advocacy

- The lack of financial resources to invest in board development amidst declining budgets.

> *Some trustees feel that by dint of their work experience and age that they are appropriately experienced and that this is qualification enough for being a board member – there seems to be an assumption that even though their work based experience may not have involved charity or cultural sector leadership they are nevertheless fully qualified.*
>
> Chief Executive – Museum

Notwithstanding the very real issue of limited time and resources, it is important to recognise the adverse costs of an ineffective board: a knock-on, negative, impact on collective knowledge, habits, communication and contribution. Sector performance can only be enhanced by effective governance development and we actively encourage participation related to need and operational effectiveness. Board members engaging positively with governance development experience the distinct benefits of keeping abreast of changes in legal and professional practice, broadening know-how and understanding, and gaining increased confidence regarding accountabilities and responsibilities.

As detailed in 6.1 below, a significant range of opportunities are now available at low or no cost, at different times of the day and in a range of formats. Whilst formal training environments are generally not favoured, we recommend that boards as a minimum, regularly take part in a facilitated board 'Away day', for example on an annual basis, as a bespoke and effective development opportunity. These can combine focused skills or knowledge development, with time for broader reflection, exploration and discussion of strategic areas. Such activities additionally provide the valued opportunity to spend time socially with colleagues and build the rapport that can positively influence the management of challenge or conflict, should this arise.

Connecting beyond the board with peers from other organisations and sectors is also valuable: bespoke networks and membership bodies, such as the Association of Chairs or Charity Finance Group bring valued benefits to their members. Arts Council England is piloting a range of chair focused gatherings in the North. The Association of Independent Museums is also developing a trustee network and has recently introduced a regular newsletter for trustees.

> *Chairs and trustees need access to high quality, structured development activities on an ongoing basis. They need access to peers and mentors from whom they can learn, and access to practical and accessible support.*
>
> Association of Chairs

6.1   Opportunities and gaps in provision

A detailed audit of governance training and development opportunities and resources, (Summer through to early Winter 2016) is provided in Appendix 6. The audit summary below highlights the provision in terms of:

- Training Providers
- Priority Governance Topics
- Accessibility.

6.1.1   Training providers

Table 2 below shows that long established third-sector providers such as ACEVO, NCVO and the Directory of Social Change continue to deliver a comprehensive range of programmes.

TABLE 2   Sample of training from key providers

PROVIDER	FOCUS	LOCATION		COST
ACEVO	· Board Effectiveness · Charity trustee Induction & Refresher · Finding and Recruiting Board Members · Dynamic Duo: Roles of chair & CEO	London Manchester	Various	£49 – £299
Civil Society	· Chairs of Committees · Finance for trustees · High Performance Boards · Practical Board Solutions · The trustee Role · Governance in Practice		Full Day	£195-£235*
Directory of Social Change	· A trustee's Role in Fundraising · Duties of a Company Secretary · Duties of a trustee · Good Governance – Effective Boards · Governance Models for Voluntary Orgs	London	Various	£85 – £345
FSI	· Effective trustee Boards · Fundraising · Recruiting & Retaining trustees · Risk Management · Strategy Development for Charity Leaders · Trustee Role in Fundraising · Trustee Role in Risk Management	London Cardiff Glasgow Nottingham Preston Sheffield	Half Day	Free (£10 booking fee)
ICSA: The Governance Institute	· Essential Charity Governance · Good Governance for trustees · Not-for-profit Roundtables	London	Various	Free – £400
NCVO	· Charity trustee Induction & Refresher · Strategy for Growth and Development · The High Performance Board	London	Various	£195 – £795*

* Depending on membership / size of the organisation

The Charity Commission runs an annual trustees week 'to showcase the great work that trustees do and highlight opportunities for people from all walks of life to get involved and make a difference.'[42]

Focused networks, law/consulting firms and charity sector think tanks are also present in this field, including: the Association of Chairs; Charity Finance Group; Bates Wells and Braithwaite's OnBoard programme; Farrars; Egon Zehnder; Cause4 and New Philanthropy Capital. Feedback from the interviewees indicates that, where training is being accessed, the suppliers being used tend to be conventional providers; training agencies and the private law/consulting firms.

42   Trustees Week

TrusteElearning is a Charity Commission-supported tool developed by SAVO CIC with funding from the Big Lottery Fund. It offers trustees easy access to self-paced online training, costing £10 per module or £80 for all twelve sessions. The Pensions Regulator also offers a free online trustee Toolkit aimed at trustees of occupational pension schemes. It comprises fifteen learning modules, broken down into smaller scenarios where knowledge is tested through 'decision' point questions.

In terms of relevant academic programmes available to all sectors, the International Centre for Management and Governance Research (ICMGR) at Edinburgh Napier University have launched a Postgraduate Certificate in Leadership in Board Governance (LiBG) aimed at ambitious experienced professionals seeking board level opportunities.[43]

ARTS AND MUSEUMS-FOCUSED PROVIDERS

There is a small range of arts and museums focused providers including the Clore Leadership Programme, Association of Independent Museums (AIM), Independent Theatre Council (ITC), Museums Galleries Scotland and Arts and Business Cymru, providing targeted training, information and resources to support the arts and museums sector specifically.

TABLE 3 Sample of training from Arts/Museum sector providers

PROVIDER	FOCUS	LOCATION	DURATION	COST
Arts & Business Cymru	On Board How should a board work? · Key strategies to ensure success · Relationship management	Wales	Full day	£500-£1,000
AIM	Hallmarks Governance Programme Engaging Board Meetings · Chair/CEO Relationships · Succession Planning	Birmingham London Manchester York	Half day	Free
Clore Leadership Programme*	Board Away Days Chair/CEO Days Board Member Days New CEO Days	England & Wales	Full day	Various
ITC	Company Formation & Charitable Status	London Salford	Half day	£50
Museums Galleries Scotland	Board Development	Edinburgh Perth	Two days	£96/£120
UK Theatre	The Art of Governance	London	Full day	£110 – £215

*   This governance development training was offered by the Clore Leadership Programme between 2007 to 2015. These activities are not currently available as they are being revised pending the outcome of this review.

43 Leadership in Board Governance

The Clore Leadership Programme has provided a range of board development initiatives since 2007. Between 2007 and 2013 it offered between eleven and fifteen board away days per annum for arts organisations and museums across the UK, reaching over 120 trustees in each year. From 2009, it expanded its range to include chair/CEO Days, Board Member Days and New CEO Days enabling a wider range of organisations and individual trustees to access targeted development opportunities and to build new networks. Over 800 trustees and CEOs have benefited from this valued provision. Delivered by some of the sector's most respected and experienced professionals, and featuring a mix of guidance, discussion and exchange, the board development days have been repeatedly applauded by sector participants.

ITC report interest tapering off in board-focused programmes, possibly due to time constraints on trustees to attend. The inability of their organisations to pay the fee from a limited training budget is another factor.

The Arts and Business campaign run by Business in the Community (BiTC) also provide their Young Professionals on Arts Board Programme placing high potential individuals aged under 30 into non-executive trustee roles with arts and cultural organisations across England.

A previous gap that has recently been partially filled is that of a centralised route for gaining access to trustees for organisations, beyond advertising or working with recruitment agencies. Cause4 has initiated its Trustee Leadership Programme, which provides an essential guide to becoming a charity trustee for senior professional as well as younger employees looking for board level experience.[44] In an innovative twist, attendance on the course includes a matching opportunity for charities seeking board members. The programme also offers participants a continuing relationship through an alumni network.

6.1.2   Priority governance topics

The snapshot shows that training and development is currently on offer in a core range of subjects including:

- Company Formation and Charitable Status (ITC)
- Chair/CEO Relationships (AIM/ACEVO)
- Duties of Charity trustees (BWB OnBoard/Directory for Social Change)
- Effective Trustee Boards (ACEVO / the FSI/Civil Society)
- Finance for trustees (Charity Finance Group / Civil Society)
- Fundraising for Boards (Cause 4/Directory for Social Change/the FSI)
- Governance Models for Voluntary Organisations (Directory of Social Change)
- Induction & Refresher Training (NCVO)
- Recruiting & Retaining trustees (ACEVO / the FSI/AIM)
- Risk Management (the FSI)

In addition there are topical courses on areas such as digital strategy, specifically aimed at trustees and senior leaders (School of Social Entrepreneurs); Strategy for Growth and Development (NCVO); and Avoiding Governance Failure – lessons from the Charity Commission's casework, from the Association of Chairs. Few gaps in governance subject areas can be pinpointed. However, the added value of learning that is specific to or primarily focused on the governance of arts organisations and museums could provide added appeal for board members.

Through a collaborative partnership of agencies engaged in governance development (see 6.1 below) we recommend that a series of strategic training interventions is developed. These should be held in diverse regional locations, and include webinars and podcasts as well as short online learning modules. Assessing the gaps in available training targeted at the arts and cultural sector, priority themes might include:

- Managing artistic and creative risk
- Defining organisational purpose and how to advocate for this effectively
- The entrepreneurial board – maximising income streams and relationships[45]
- The priority role for the board in fundraising
- Making effective use of creative and cultural assets for income generation
- Diversifying the board – recruitment and relationship-building
- Shifting mindsets – developing a more generative mode of governance

Reports such as *Boldness in Times of Change*[46] raise questions for the future of governance in the not-for-profit sector that are equally pertinent to arts and museum boards. Provocations and think pieces arising from the above debates and events could be regularly added to the Governance Resource (see Appendix 7) so it becomes a live and dynamic resource. Arising from these debates, The Governance Resource could also highlight ideas and themes around which to build advocacy messages that reflect discrete organisational circumstances and priorities.
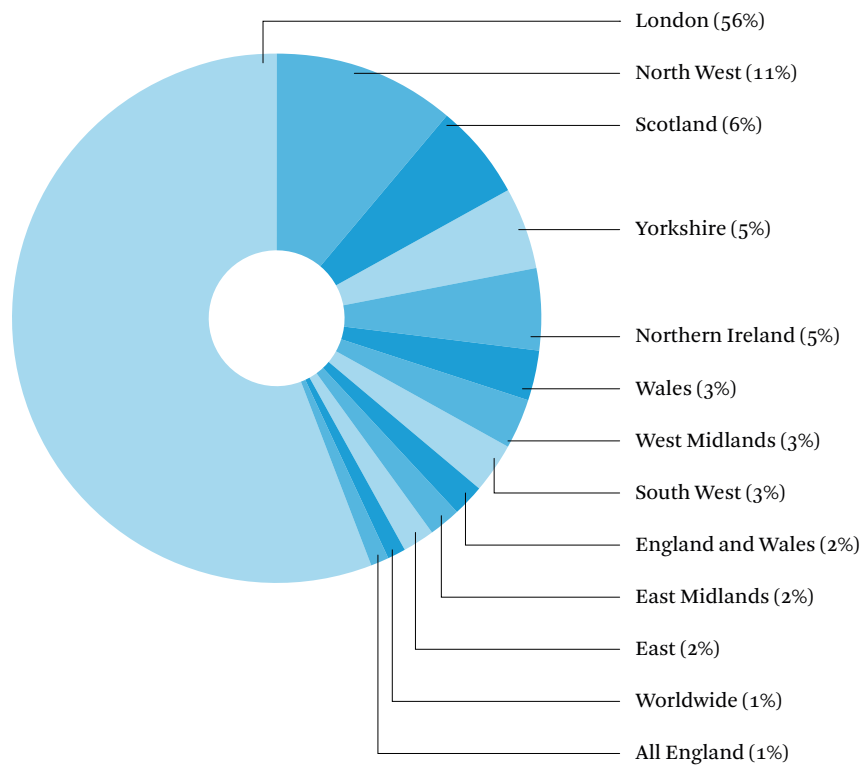
6.1.3   Accessibility

REGIONAL SPREAD
The majority of these governance development activities take place in London, with cities like Manchester, Birmingham, Cardiff, Bristol, Edinburgh and Glasgow featuring to a lesser extent. The Foundation for Social Improvement (FSI) in particular provides regular provision across the UK. Undoubtedly, London is convenient in terms of accessibility, but there is evidently scope to extend the range of services beyond the capital.

---

45   In collaboration with Arts Council England's newly formed Enterprise and Innovation department

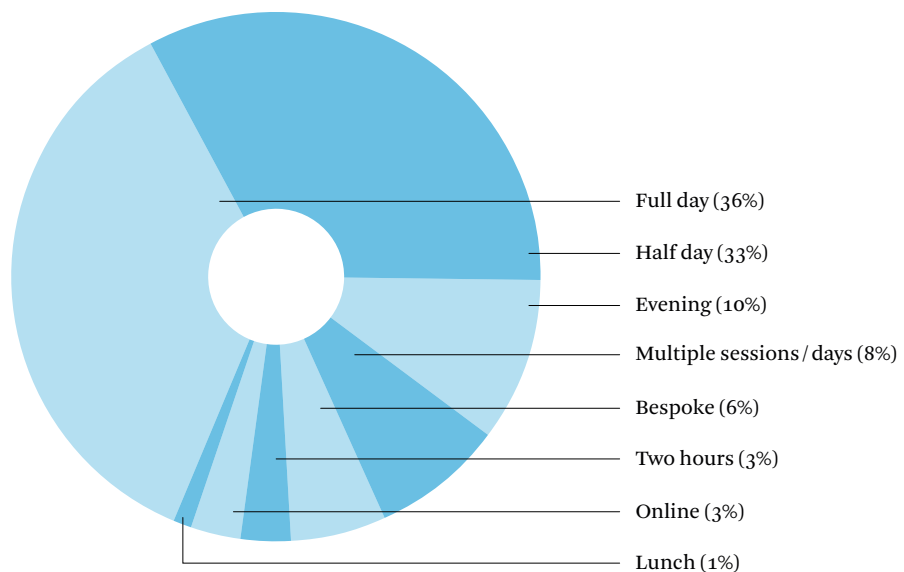46   New Philanthropy Capital (2016) *Boldness in Times of Change*

FIG 1   Geographical spread of training

- London (56%)
- North West (11%)
- Scotland (6%)
- Yorkshire (5%)
- Northern Ireland (5%)
- Wales (3%)
- West Midlands (3%)
- South West (3%)
- England and Wales (2%)
- East Midlands (2%)
- East (2%)
- Worldwide (1%)
- All England (1%)

DURATION

A healthy variety of programmes exist, facilitating a choice of participation options. Provision ranges from 2-hour and evening workshops (13%) to half-day (33%) and full-day (36%) programmes. A smaller number of two and four-day programmes (8%) are listed, with the remainder being mixed provision, online learning or consultancy-based tailored delivery.

FIG 2   Training duration/type

- Full day (36%)
- Half day (33%)
- Evening (10%)
- Multiple sessions / days (8%)
- Bespoke (6%)
- Two hours (3%)
- Online (3%)
- Lunch (1%)

COST OF TRAINING

The cost of training varies significantly from provider to provider. Some provision is offered for free:

- AIM: Strengthening chair/Chief Executive Relationship (half day)
- ICSA: The Governance Institute Not-for-Profit Roundtables (half day)
- The FSI Good Governance series[47] (half day)

Several providers offer half-day programmes priced in the region of £45 – £100

- New Philanthropy Capital: How to be an Effective Trustee: £45 (half day)
- Directory of Social Change: A Trustee's Role in Fundraising: £85 (half day)
- ITC – Company Formation and Charitable Status: £50 (half day)

Charity Finance Group, ICSA and NCVO offer a range of one-day workshops according to membership and the size of the organisation:

- Essential Charity Finance for Trustees (CFG): £128 – £158
- Essential Charity Governance (ICSA): £240 – £400
- The High Performance Board (NCVO): £195 – £395
- Leadership in governance (Clore Social Leadership Programme): £150.

6.2　Resources and publications

Appendix 7 provides a themed reading list of publications and resources with advice for trustees and senior executives in the third sector. With over 70 items, guidance can be found on a range of topics including

- General Governance – compliance, codes, checklists and practical guidance
- Trusteeship – codes of conduct, responsibilities and accountability
- Legal and Financial – legislation, regulation and obligations.

The appendix lists both formal publications and online resources.

Industry websites such as AIM, Museums Association, UK Theatre and ITC provide online access to sector-focused information, issues and experience[48] however, there are very few examples of sector-specific experiences in publication format.

47　£10 booking fee

48　In certain instances, key information is only available to members.

'Care, Diligence and Skill' published by the former Scottish Arts Council (latest update 2008 and currently being updated again by Creative Scotland), remains an important information source and several interviewees cited this long-standing resource as priority reading. Only three other publications speak directly of governance in the arts and museums: *AIM Golden Rules for Good Governance* (2013);[49] *Arts Governance: People, Passion and Performance* (2014) Routledge; and *Governance Now* (2009) Cultural Leadership Programme.

Amongst respondents to this review there is strong awareness of the Charity Commission website, as well as the work of long-standing organisations such as the NCVO. There is surprisingly little knowledge of other available support resources from the third sector including The Code of Governance.

The pilot Clore Governance Guide will provide a key addition to sector resources. At present the approach centres on a tightly focused set of tools and we recommend that this Toolkit becomes part of a wider suite of governance assets in an online *Governance Resource*. This central hub would combine the factual information and links already developed with an enhanced range of guidance, information, and signposts to training and development. Digital learning materials such as podcasts and webinars would help to animate the learning experience for trustees and encourage engagement with this priority area of arts and museum practice. (See Chapter 8 below).

49   *AIM Golden Rules for Good Governance* (2013)

7 Governance structures in the sector

There are a wide range of governance structures available
for arts organisations and museum including:

COMPANIES

- Limited Company – either limited by shares (for-profit)
  or limited by guarantee (not-for-profit)
- Charitable Company (Company limited by guarantee
  with registered charity status)
- Charitable Incorporated Organisation (CIO)
- Community Interest Company (CIC)

ASSOCIATIONS

- Unincorporated Association

TRUSTS

- Charitable Trust (unincorporated)
- Development Trust and Social Firm

OTHERS

- Industrial and Provident Society (Cooperative)
- Partnership and Limited Liability Partnership

A range of online information and resources offer accessible overviews
of the legal structures for not-for-profit organisations. These include
GOV.UK,[50] The Resource Centre[51] and Bates Wells and Braithwaite[52]
amongst many. The Clore Governance Guide also includes guidance
on structures of governance.

50 Setting up a social enterprise

51 What is a not-for-profit organisation?
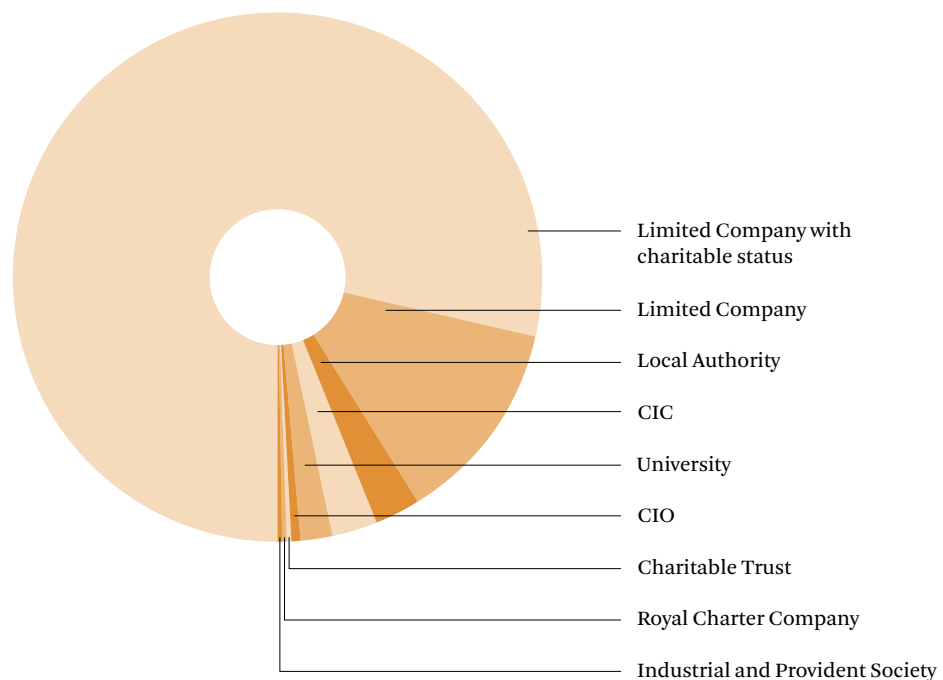
52 Decision Tool: Get Started

Across the arts and museums sector the significant majority of organisations are working with the dual model of a company limited by guarantee with registered charity status. The range of legal entities has expanded in recent years, notably to include CICs and CIOs, which offer the sector greater flexibility and choice in levels for regulation and accountability. It is telling, however, that the arts and museums sector have not, to date, taken up these options in significant numbers.

In order to create a summary of current governance structures in use in the sector, we analysed the governance structures of the Arts Council England NPO/MPM organisations was undertaken. The results are included in Appendix 8. Whilst the Arts Council portfolio is not designed as a representative sample of operational structures, it provides a helpful cross-section of sector organisations and gives a clear confirmation of the preponderance of the traditional structure:

- 523 (79%) of the portfolio are Limited Companies with registered charity status
- 83 organisations (12.5%) are Limited Companies
- 19 (3%) are Local Authority cultural bodies (mainly Museums/Galleries) and
- 13 (2%) are University provision, including 2 University Museums
- Only 17 organisations (2.5%) have adopted the CIC model and
- 3 (0.4%) of organisations are CIOs.

The portfolio also includes two Charitable Trusts, two Royal Charter Companies and one Industrial Provident Society.

FIG 3   Operational models – ACE NPO/MPMs

Limited Company with charitable status

Limited Company

Local Authority

CIC

University

CIO

Charitable Trust

Royal Charter Company

Industrial and Provident Society

Limited Companies with Charitable Status is the model
of choice across all scales of sector organisation, selected by:

- 74% of Micro organisations
- 82% of Small organisations
- 94% of Medium and
- 63% of large organisations

Whilst Local Authority and University provision cross all scales
of organisation, 12 of 17 CICs and ALL sector CIOs are Small scale.

IS THERE A PROBLEM?
It is a truism that organisational structure plays a pivotal
role in operational effectiveness:

> *By developing clear and cohesive governance structures, charity
> boards can become more inclusive, accountable and ultimately
> better equipped to serve their beneficiaries.*
>
> Institute for Philanthropy[53]

However, interviews with more than fifty arts organisations and
museums did not indicate the operational structures as presenting
concern. This echoes similar research in Governance Now[54], which
explored the question 'Could cultural organisations deliver better if
they aren't charities?' Whilst noting that charitable status potentially
adds to the complexity of governance, restrict the payment of trustees,
inhibit entrepreneurialism and add to regulation and compliance, the
research concluded:

> *… the majority of well governed cultural organisations generally find
> the existence of the board, the sense of responsibility to the public and
> the company's charitable objectives, to be sources of strength rather
> than of hindrance. The ability to set-up wholly-owned trading
> subsidiaries provides charities with a mechanism for growing their
> income base through entrepreneurial activity while the new capacity
> to add a CIC to the 'group' should enable a charity to undertake
> entrepreneurial activities in a more flexible way.*

53   The State of UK Charity Boards (2011) A Quantitative Analysis
     by the Institute of Philanthropy

54   Cultural Leadership Programme (2009) Governance Now:
     the hidden challenge of leadership, 23–29

It is understandable that existing organisations will continue to work within the structures established prior to the new legal entities introduced with the Companies Act 2006. The benefits of transferring to the new instruments would require scrutiny and, in practice, arts organisations and museums have become adept at adapting their custom and practice to meet the legal requirements of existing regimes by 'making the best of it' rather than applying tough scrutiny regarding the benefits and dis-benefits of their governance model. Nevertheless, in May 2016 there were 12,000 registered CICs in the UK[55] and it remains imperative that arts organisations and museums assure themselves that they continue to operate using the optimal legal model to maximise public benefit in line with their founding vision and objectives.

The analysis of governance structures across the Arts Council England NPOs and MPMs carried out to support this review (see Appendix 8) reflects the overview of the sector at a moment in time. It would be beneficial for this analysis to be repeated as part of a longitudinal study, to assess the trends and variations in the portfolio over time. The new NPO group, awarded funding from 2018 would provide an early opportunity to review developments. Through this analysis, significant shifts in practice could, in the future, inform the identification of issues, challenges and of companies seeking to establish or review their operational model.

We recommend that Arts Council England includes this summary as part of an enhanced intervention in the field of governance and that it is shared as part of the Governance Resource (see 6.2 above).

7.1   Identifying the best model

Opinions vary on the strengths and weaknesses of the different legal entities and what suits the circumstances of one organisation might not meet the complex needs of another. Care Diligence and Skill[56] remains a core text for many in the sector on issues of governance, including baseline guidance on the strengths and weaknesses of different legal structures. It does, however, predate the Companies Act 2006 and the Clore Governance Guide offers a more contemporary overview of factors to consider including simplicity, cost, speed, privacy, legal identity, membership, regulation, liability and control and explores the issues and opportunities against these headings.

---

55   CIC Association

56   Care, diligence and skill a corporate governance handbook for arts organisations

At a macro level, it is important that organisations consider the relative strengths and weaknesses of the various structures, set against their organisational ambitions and objectives. Drawing upon the issues identified through this independent review, we suggest four priority considerations:

- Vision and ambition
- Accountability to the constituency
- Financial benefits and advantages
- Regulation and compliance

7.1.1   Vision and ambition

- Which legal entity best aligns with the long-term ambition of the company?

If responding to a localised agenda or a focused aspiration (such as local museum promoting a prioritised collection or arts organisation targeting a regional audience), might a Charitable Incorporated Organisation model, with its recognition as a legal entity combined with limited liability for trustee/committee members adequately meet these needs?

7.1.2   Accountability to the constituency

- What model of formal interaction provides effective accountability to organisation constituencies?
- What is the most effective process for decision-making?

Governance models once established determine distinct hierarchies for decision-making, responsibility and accountability. Considerations of who and how many individuals are best placed to determine organi-sational matters; the nature and extent of decision-making powers and level of dialogue, communication and consultation are key to deter-mining whether an Association (with its inherent accountability to its membership) is optimal, or whether authority can readily be invested in a selected group of trustees or Company Directors.

According to The Charity Commission around 44% of charities have a membership model for determining governance decisions.[57] Although some may argue that a membership model increases local accounta-bility, problematic and controversial decisions can also ensue when using simple majorities. Thus, several arts organisations and charities are taking steps to change from a membership model to more direct form of governance.

57   Charities commission

7.1.3   Financing and enterprise

- What flexibility is critical to encourage entrepreneurship and enterprise?
- What are expected to become the core sources of income?
- How critical is the requirement for business rate relief (awarded to charities) or the facility to be able to claim tax relief on Gift Aid?

If the ambition is to explore a range of enterprising options, meeting community-centred needs with a strong leaning towards entrepreneurship and commercial trading to underpin cultural experimentation, would the platform of a Community Interest Company be appropriate? This could be less cumbersome than establishing a Charitable Company and a separate Trading Company (and the ensuing requirement for two sets of accounting procedures, protocols and costs). The CIC supports the drive for social enterprise and the ability to mix grants with priority trading income.

7.1.4   Regulation, transparency and compliance

- What level of regulation, transparency and compliance will give confidence to key stakeholders, including potential funders?

The newer organisational structures (CICs and CIOs) are deliberately designed to offer a more 'light touch' approach to the governance of organisations and the level of safeguards are therefore reduced. For many Trusts and Foundations, the high level of transparency and accountability aligned to an organisation with charitable status is an essential criterion for investment. However, this is not always the case. Some charitable trusts, such as The Foyle Foundation, are restricted (by their own governing document) to funding only organisations that are charities. However, several have the flexibility to support organisations delivering *charitable activities* that are not registered charities. The subtlety of this difference is not penetrating sector awareness. The need for charitable status remains as its rigour provides reassurance for funders in terms of their investment.

Reviewing the areas and questions above will assist both existing and new organisations to determine the optimal elements of their operational framework.

7.2   Museums in transition

The Museums sectors in England and Wales face particular sets of challenges as relationships with Local Authorities are increasingly strained in response to stark cuts in government funding and changed priorities at local level. There is a perception of strong accountability and transparency with a Charitable Trust model, which can be regarded as giving greater reassurance to funders and those who give philanthropically to cultural institutions.

Lincolnshire County Council

In 2011, Lincolnshire County Council transferred two of its small museums, along with their collections to local Charitable Trusts. The motivation was to ensure that the collections would be held in trust for the community long-term and to encourage a localism agenda. In Grantham, a group of local volunteers is now managing the museum as a viable enterprise to preserve the town's heritage.

In the case of the larger 'civic' museums, local authorities have largely opted to create Charitable Trusts, seeing this as a priority model for safeguarding collections and heritage assets, although ownership of those assets has typically remained within the local authority. Over time, a significant number of these have since adopted the company limited by guarantee model, recognising the benefits of the limited liability this model provides for trustees.

There are some high profile examples of Local Authorities opting for the CIC model for significant heritage assets, as in the case of Gunnersbury Park and Museum, where Ealing Council state that:

> *A CIC provides freedom for the park to operate in a commercial manner, while at the same time maintaining accountability through the two councils currently managing Gunnersbury. And, in addition to a number of financial advantages, it allows local residents an opportunity to be in the driving seats on operational matters… The future of the park will be more secure now, with decisions being made quicker allowing the park's potential to be maximised. The new management approach also means the park's funding will be protected from any changes in the budgets the council gets going forward and they can reinvest any surplus funds the park generates.*[58]

It is understood that other small and medium-sized museums with a few paid staff have also opted for the CIC model.[59]

58   Gunnersbury park regeneration gets a cic-start

59   The Whitaker Art Gallery at Rossendale is run by an artist collective

7.2.1 Challenges in transition

Whilst some of the newly formed organisations emerging from local authority management are maturing well and have exceptional trustees, several have encountered problems in making the transition. There are a number of pitfalls including:

1. There is often insufficient acknowledgement by the devolving local authority, that the new arrangements will take time and investment to establish, and funding may be tapered off too quickly.

2. For Local Authority museums transferring to new models, it is generally the case that the authorities retain ownership of the collections and buildings. This limits the ability of a new museum trust to exploit these assets and establish a stronger financial foundation for the charity.

3. The new organisations can draw on a limited pool of people in recruiting to the board who may not have the right qualities or skills.

4. In the interests of democratic representation, local authority councilors may take up too many board places, resulting in conflicting interests at board level that inhibit organisational leadership.

5. To deal with the issue of representation the boards may become large, with up to 15–16 people, vying to contribute.

6. The trustees may not meet sufficiently often enough to mature as a team and become familiar with the organisation's ambitions and work. Several of the new Museum Trusts, for example, have found that meeting four times a year is not adequate, during the first few formative years.

7. Diversity among trustees and appointing a well-connected board is important. People who are talented and skilled may be less interested in joining a new board and board composition may become quite formulaic.

8. There is sometimes an assumption that the local authority will act as a safety net, which may lead a new board to be less fastidious about their financial and fundraising obligations.

9. The new organisation may inherit all the problems that the old local authority department had rather than being given a genuinely fresh start as a new charitable business.

10. As with all legal obligations, it is imperative to secure independent legal counsel for review and negotiation. Restrictive Covenants signed in good faith can severely limit progressive or commercial enterprise.

AN EXCEPTION TO THE RULE

One of the notable exceptions to the divestment approach is Norfolk Museums Service where the outcome of the options appraisal in 1974 resulted in a commitment to maintain management and servicing of its suite of ten museums through the establishment of a Museums Service. The Service is now supplemented with a Development Foundation Board, with charitable status, which it identifies has made it significantly easier to attract corporate sponsorship for exhibitions and programmes.

Norfolk Museums Service

Norfolk Museums Service was established in 1974 when the County and District Councils in Norfolk agreed to delegate their museum powers to a Joint Committee to manage their diverse group of museums and to care for important collections within the owner-ship of the County and District Councils through a countywide Museums Service. This way of managing museum services, dependent on the foresight and generosity of the partners, was highly innovative at the time and is still a distinctive approach today.

The Norfolk Museums Service model allows the service to operate success-fully on a national and international level, whilst being flexible enough to respond to the needs of our local communities. The establishment of the Norfolk Museums Development Foundation (an independent charity) complements our other sources of income, including our core local authority grants and strategic support from Arts Council England and the Heritage Lottery Fund, as part of an holistic approach to income generation.

Steve Miller, Head of Norfolk Museums Service

Whilst the Norfolk Museums Service is an exception to current trends many local authority museums across England and Wales are not secure or exempt from massive cuts, such as the example of Kirklees Council, announcing the closure of three museums in October 2016[60].

There are considerable governance implications for local authorities and for museum trusts. When the Museums Association launched a survey on recent museum closures in October 2016, the MA Policy Officer, Alastair Brown, stated:

> *We want to ensure that governing bodies really understand the complexity and costs of closing a museum, and that museum staff and volunteers have a practical guide to closure which ensures the most ethical outcome in what is always a difficult time.*[61]

60 Kirklees confirms closure of three museums

61 Working group museum closure

The body of evidence around museum transitions and closure is now substantial, but it resides within web archives of different agencies, in anecdotes and in pockets of organisational memory. The sector's ability to learn from its shared experience is therefore diminished.

We recommend that the Governance Resource (see 5.2 above) will collate research and provide links to the invaluable range of reports and findings on the issue of local authority divestments and museum closures. As a shared online space for the sector, it would provide a valuable first port of call for inquiry and investigation and, potentially, develop guidance for local authorities and museums to support the long-term maintenance of key cultural assets.

8   Conclusions

The review has revealed significant good practice across the sector. Organisations are making valiant efforts to provide and sustain cultural provision of the highest calibre in a climate of diminishing resources and intense public scrutiny. Many are working with inherited governance models that have been adapted in order to access public investment in culture. It is now time for greater agility and fresh thinking at board level to support organisations to achieve their ambitions. Requiring trustees to make choices between stewardship and entrepreneurship, or focusing on short-term expediency at the expense of cultural transformation, is unhelpful. The creative abilities for which the sector is known need to be given a much sharper focus within the boardrooms of cultural institutions.

8.1   Strengthening governance

The current environment requires that the governance of arts organisations and museums becomes more adaptive and far-sighted; trustees need to address fiduciary responsibilities whilst exploiting new opportunities. Effective governance will only be achieved with a concerted strategy to shift both mindsets and behaviours. This requires boards to acknowledge that the current volatility is 'the new normal' and adapt their approach in response. Boards can no longer rely on closed 'friendship circles' or favour familiar experiences and skills when thinking about their membership. Boards need to adopt a multi-layered approach to leadership that prioritises advocacy, strategic thinking, collective endeavour and emotional intelligence, whilst drawing on members' technical expertise and experience.

A wide variety of resources is currently available to support governance, including guidance, publications, development opportunities and a small number of networks that engage and encourage peer-to-peer support, dialogue and exchange. Some of this advice is generic and some is tailored to the cultural sector. The availability of advice, training programmes and publications aimed at governance in the not-for-profit sector is widespread and arts organisations and museums have much to learn from other charities.

However boards in the cultural sector are not consistently using these resources and many would welcome guidance, signposting and assurance – from trusted sources and from their peers – on what would be most useful. At the same time, the way in which development opportunities, tailored to arts organisations and museums, are sometimes described is not always appealing. The message needs to be compelling, so these are seen as 'must attend' events that then support the development of networks for board members.

8.2   Collaboration

Amongst the network of strategic agencies, there is already interest in collaboration and closer partnerships as well as finding ways to connect and signpost towards the significant body of good practice and guidelines that are already available. The commissioning trusts and foundations (Clore Duffield Foundation, Esmée Fairbairn Foundation, Foyle Foundation, Garfield Weston Foundation and Paul Hamlyn Foundation), along with the Clore Leadership Programme, have now seeded the foundation of a strategic alliance of organisations concerned with resilience and innovation in governance. We encourage the commissioning partners to consolidate this relationship, joining forces with a range of strategic agencies[62] with this shared interest to form a new *Governance Alliance* to encourage strong governance in turbulent times.

The Governance Alliance will build on the appetite for collaboration and closer partnerships to harness and promote the tools for effective governance through creating an online *Governance Resource*, a first port-of-call for governance advice, information and development for arts organisations and museums.

The Governance Alliance would create a platform to stimulate and support boards to be bolder in tackling the governance agenda and, in particular to:

- Be more far-sighted and entrepreneurial
- Develop a healthier attitude to risk
- Encourage boards to be more confident in questioning creative policies and programming as well as fulfilling the fiduciary aspects of their role
- Step more courageously into the fundraising role
- Learn from the wider third sector, and
- Adopt a more proactive and strategic approach to inclusion and diversity.

62   Organisations listed in Appendix 5 should be invited to contribute to the Governance Alliance, alongside other funding, development, training and membership bodies engaged with governance.

9 Recommendations

Establish the Governance Alliance – a strategic partnership of agencies working collectively and proactively to support cultural sector boards to develop strong leadership in the context of a changing and ambiguous world.

The Governance Alliance will harness the work of partner agencies. Building on the convening power of its members, the Governance Alliance would provide a voice for advocacy across the sector and a reference point for all who share an interest in strengthening governance in not-for-profit organisations more broadly. A slim infrastructure would focus the work of the Alliance on awareness raising, advocacy and collaboration around shared priorities, whilst reinforcing the independent and diverse interests of its members.

It is envisaged that the Governance Alliance would be led by a small Steering Group, and resourced with a Coordinator to both manage the delivery of membership priorities, and animate the Governance Resource. A forum of sector partners should be convened to agree priorities and determine the operation of the Governance Alliance going forward.

The Governance Alliance will advocate for enhanced engagement with governance development, including initiatives to:

a) *Strengthen opportunities for dialogue and networking* as key tools for informal learning and exchange (6)

b) *Accelerate steps to achieve board diversity* through a strategic matrix of information, resources and support, including models of good practice, case studies and helpful links (5.2.1)

c) *Curate a series of strategic development events / interventions* in a range of locations, supported by webinars, sector focused podcasts and short digital learning modules aimed at trustees. These would be both issue-based and practical and focus on developing trustee self-support networks (6.1.2)

REC II   Develop a Governance Resource – a dynamic and contemporary online hub to support governance learning and networking. Led by the Governance Alliance, the Resource will be an independent online platform for good cultural sector governance – a meeting point for sector focused information, which signposts a range of resources that underpin good governance. The Governance Resource will grow out of the work of the Alliance and also provide a focus for learning exchange for trustee networks.

REC III   Promote Culture Change in the delivery of governance – supporting the boards of arts and museums to harness existing good practice and address priorities for development in order to:

a) *Ensure adequate time and space for regular strategic discussions*, placing the creative vision and programme at the helm of business development (5.1.1 / 5.2.2)

b) *Enhance income generating capacity and capability* by proactively engaging with fundraising as a collective effort. For example, encouraging board member donations according to their means, and prioritising diverse and entrepreneurial approaches to income generation (5.1.2)

c) *Strengthen board member involvement in organisational advocacy* by recruiting board members who understand the value of advocacy and their fundraising role and who, with regular briefings, engage and actively build the organisation's reputation (5.1.3)

d) *Secure best practice in board recruitment and induction* including regular review of board membership; promoting trusteeship as a positive and enjoyable experience; ensuring that succession planning supports effective knowledge transfer; and providing a clear and concise Code of Conduct as part of an effective board induction process (5.3.1 / 5.3.2)

e) *Accelerate board diversity* by investing in focused, sustained strategies for recruitment and engagement (5.2.1)

f) *Ensure effective meetings and board behaviours* through regular reviews of performance including agenda setting; the culture of the board and the number and nature of committees (5.4.1)

g) *Positively facilitate governance development* and recognise the adverse costs of an ineffective board. Ensure that chairs obtain regular feedback and first-time CEOs undertake training on how to work effectively with a board (6).

REC IV   Arts Council England and Arts Council Wales should raise the profile of and focus on governance as part of their roles as development agencies. Priorities should include to:

   a) *Participate in The Governance Alliance and Governance Resource*, contributing information and connections to the significant body of research that will support governance development. In line with its leadership role on the Creative Case for Diversity Arts Council England could be invited to lead the work on diversity in governance (5.2.1)

   b) Ensure that Relationship Managers/Lead Officers have the knowledge and confidence to provide effective governance support (5.2.1)

   c) Capture and publish information on governance structures in use within the sector, periodically identifying trends and movement in sector take up of new governance instruments (7).

● The Clore Leadership Programme
● ● ● ● ● ● ● ● ● ● ● ● ● ● ● ● ● ●