

Ethical Standards Commissioner

HARNESSING BOARD ROOM DIVERSITY – SCOTTISH LEGAL COMPLAINTS COMMISSION

The difference that diversity
makes to your board's governance

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BODY: SCOTTISH LEGAL COMPLAINTS COMMISSION

CATEGORY: SYSTEMS

KEY LEARNING POINTS FROM THIS CASE STUDY

- *How using clear systems for decision making makes good use of the diversity in the board room*
- *Learn about the impact of facilitated diversity enhancing workshops*
- *Learn how diversity is a journey not a goal, needing regular work*

Background

The Scottish Legal Complaints Commission's work is to be the independent first point of contact for all complaints about lawyers in Scotland, adjudicating some cases directly with the power to award up to £20,000 in redress. Its service is free. Its role exists amongst a landscape of different legal professional bodies which also have a self-regulation model. In 2018 the Independent Review of Legal Services Regulation in Scotland made recommendations to simplify the landscape in the future, which operationally may lead to SLCC's work being part of a new single body which is both the regulator of all types of legal professionals in Scotland, and also the complaint body.

At the heart of its purpose is providing some balance of power, in a context where different stakeholders (legal profession, individual citizens, companies) may seem to have very different amounts of power. The role of the board is both to govern the organisation as well as to act as final decision makers for some of the work, by sitting as determination committees. The determination committees are always made up of one legal and two lay board members.

The values of the organisation are fairness, impartiality and equality. So there is a direct link between valuing and maximising members' diversity of thought and the core raison d'être for the organisation. As one board member put it, "for me it's about achieving fairness... no two cases are the same. Because fairness has no formula you need a broad range of views about what fairness is in these particular circumstances."

This case study focuses on the impact of having regular diversity reinforcing workshops as well as having an enhanced induction for new members.

Main areas with diversity focus for the Scottish Legal Complaints Commission Board and the difference that they make to the way diversity is harnessed

Area of focus	Activities
<p>HALF DAY LEARNING SESSIONS BEFORE EACH BOARD MEETING</p>	<ul style="list-style-type: none"> • Disparate views are welcomed and encouraged • The wider context is explored together • Different learning styles are accommodated at planning and delivery stages
<p>CHAIR COLLABORATIVELY PLANNING THE BOARD AGENDA <i>Sharing the prioritisation of the agenda with CEO and Non-Exec's</i></p>	<ul style="list-style-type: none"> • Shared ownership of the agenda • Using the diversity of perspective to shape the board meeting agenda • There are no 'elephants in the room' at Board meetings • Using different techniques to gain input pre, during, and post meeting to accommodate different preferred approaches
<p>REGULAR DIVERSITY REINFORCING WORKSHOPS <i>The board take time to collectively sharpen their learning about how to work with differences well</i></p>	<ul style="list-style-type: none"> • Enables the board to identify and use differences as strengths, especially 'non-visible' diversity such as background and experience • More comprehensive challenge happens for decisions from the increased capacity across the board to draw out each other's perspectives • Learning different decision making tools
<p>ENHANCED INDUCTION <i>New board members get several days' induction across their first months together with going to SG's On Board induction</i></p>	<ul style="list-style-type: none"> • New Board members take up their roles quicker • New Board members bond with other new board members • Personal development plans are created with each board member from this early stage • Practicing the decision making that board members are involved in

The key elements in achieving the difference and how the activity is maintained

HALF DAY LEARNING SESSIONS BEFORE EACH BOARD MEETING

SLCC's Board meetings are bi-monthly and the afternoon before each one they have a half day together as a learning meeting. This enables a facilitated space to be learning together about key themes in the wider context in which the organisation sits, as well as the broader effectiveness of, and challenges to, its operational performance. Through having these learning discussions the board have a collaborative space to be thinking though where the

real impact of their decisions will be and explore wider and deeper questions from all aspects. Different techniques can be used to allow people to engage in a way in which they are comfortable, accommodating different learning styles are.

CHAIR COLLABORATIVELY PLANNING THE BOARD AGENDA

In the regular planned way that board meetings are run, diversity of thought is considered actively in how the items are prioritised and facilitated. This starts a few weeks before each board meeting with the Chair working with the CEO, both sharing what each thinks the most important 3 items are on which to focus the board's attention. Then in the half day 'learning meeting' that precedes each Board meeting, the Chair briefs the Non-Exec members on what they think are the priorities for attention, asking the board members for their views. The next morning with the benefit of the learning meeting's discussion and sleep, the Chair has a few minutes with the non-execs to check in with them about which they think are the priorities. This gives equal space to those who have a more reflective style. This session shapes the emphasis of timing and focus for the meeting. Through these steps the Chair is checking out how best to utilise diversity of thought.

Within the meetings themselves, for some items they deliberately use methods such as the Lean 6 Sigma steps for breaking down issues for evaluation by the board. Having a regular pattern or process can help everyone have a sense of when and how to contribute their different strengths in the process of the discussion. Having conscious shared, collaborative group rules for how decisions are made can help create more equality in the process.

Overall this reflects the collaborative style of decision making that runs through the organisation as a whole. The strategy behind this is with a view to generating capacity which will stand them in good stead in working through difficult challenges.

REGULAR DIVERSITY REINFORCING WORKSHOPS

Every year the board have specific diversity enhancing workshops, using industry recognised tools. Each session will use a different tool. So a couple of years ago they used the Kantor model, www.kantorinstitute.com; this year they used the Insights model, www.insights.com, which involves individual profiling and can include post workshop coaching to integrate the learning. During the facilitated workshop the whole board learn how to value and use their differences, including cognitive diversity, and this enhances the practice of how they use each other's attributes in the subsequent months. For example from the Insights model, which uses a colour code for different attributes, they would deliberately ask for certain people's direct input to discussions because they realised there was a gap in the attributes of that particular group. This approach of searching for the missing perspective enhances the quality of the decisions. This has been very useful recently in the work they did on contingency planning for the outcomes of the independent review of legal regulation.

They have also held workshops such as a half day on Unconscious Bias in decision making, looking directly at how different biases can affect critical decision making. Recently they had a workshop about high stakes/ crisis situations, focusing directly on the types of events where people might naturally think that diversity of thought is a luxury that the situation doesn't afford.

In some organisations such workshops might be used to develop diversity practice, whereas in SLCC, it is more a case of reinforcing diversity practice, through using different lenses to sharpen it. This is partly in recognition of guarding against bias that can exist, or could be perceived to exist, in context of the legal sector. In the SLCC's specific work they need lay members' judgements being just as important as those of legal members. They have a very particular concern to ensure consistency of decision making across committees, from which continued deeper work on recognising different styles and preferences of thinking support clearer decision making.

Each time they also get to know each other better and add to the shared language for how they work with each other's differences. The Non-Exec's interviewed in the gathering of this case study said that they can see immediate behaviour changes and conscious improvement of practice in the few months following one of these sessions, with the better practice starting to leak helpfully into other areas, and becoming unconscious after about 9 months.

"People can be terrified of diversity, of saying the wrong thing, so days like these can help with the permission giving and language to contribute our full selves" Jim Martin– Board Chair

ENHANCED INDUCTION TOGETHER WITH 'ON BOARD'

One of the aspects that the induction is designed to do is to make sure that non-legal members feel empowered and equal to legal members as quickly as possible, as it can be humanly natural unconsciously to settle into a pattern of deferring to those who are steeped in the profession that the body is working with. Yet that is exactly what the organisation is meant to balance out. Capacity building in members' ability to engage and challenge is not just about legal and non-legal members. For example, emphasis is also given to financial and risk competence to ensure those from non-finance backgrounds can challenge those who have, and so on.

The induction program starts with an informal meeting with the CEO, then involves a lot of background reading before a two day programme (again to support those who are more reflective) that is a mixture of gaining knowledge, meeting key people and practical exercises (for those who prefer this style). The practical exercises are said by board members to be the lynch pin, enabling new members to get confidence in decision making and really work out what they need to and want to learn through the shadowing period that follows. This then comes together with a third day a few months later.

While the internal induction gets board members up to speed with the organisation, the learning about governance principles is significantly enhanced by also participating in the Scottish Government's On Board induction programme. Finally the induction results in developing an individual learning plan for the next year.

The diversity in governance indicators in evidence

- Board discussions at the half day learning days are very much characterised by members airing disparate viewpoints. This then influences the decision based discussions to value and incorporate disparate views.

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- External audiences recognise how hard choices are made as can be seen in the SLCC's responses to the Review.
- Board members listen intelligently and learn from others in areas where they may have less knowledge.
- Different skills, knowledge, experience and perspectives are deployed, allowing more comprehensive challenge.
- The organisation is better able to lead and adapt in times of change or crisis.
- Board members are satisfied that robust testing of ideas takes place.

Checklist for actions that boards that wish to replicate these activities can use

- ✓ Find out about the different diversity enhancing workshops & tools that are on offer.
- ✓ Bring in a diversity enhancing workshop that enables board members to learn about themselves collectively.
- ✓ Plan an induction program that has both person centred meetings in it as well as practical exercises based on the work of the public body.
- ✓ Design or re-design your decision making method that has stages for different voices and reflections to be involved.

Further contact / information

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