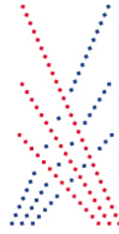

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Exploring the Contribution of Lay/Non-Executive Directors to the Governance of NHS Commissioning Bodies in England.

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Exploring the Contribution of Lay/Non-Executive Directors to the Governance of NHS Commissioning Bodies in England.

This study explores the role of lay members on boards of organizations responsible for commissioning services to meet local health needs, firstly Primary Care Trusts (PCTs) and then, from 2013, Clinical Commissioning Groups (CCGs). There can be conflicting accountabilities between a non-executive director acting in a private-sector corporate governance role, and a local representative one. This study considers the motivations for lay people taking on these roles, their expectations and experience of the role.

For nearly all respondents there was a public service motivation, with an overarching role as a defender of public interests. However, there were differences in whom "the public" were perceived to be. The dominant emphasis for some respondents was the efficiency of the organisation, reflecting a corporate governance role, and providing accountability upwards to government and to the national taxpaying public. Other respondents saw their accountability as being outwards to the local "public" and patients. The roles included challenging perceived self-interest of other board members, whether of managers in PCTs or of GPs within CCGs.

Word count: 1914

Introduction

There is a body of research on the governance of National Health Service boards in the UK, including a focus on leadership and on the role of Non-Executive Directors (NEDs) in governance. As a consequence of the “purchaser-provider” split enacted in the early 1990s in England, the English NHS established bodies that commission the majority of local health services. Introduced as a pilot in 2000, these were established across England in 2001 to 2013, these bodies were called Primary Care Trusts (PCTs). They operated on a governance model of a majority of NEDs working with Executive Directors on a board.

From 2013 a new form of governance, Clinical Commissioning Groups (CCGs), were established. These are based on a membership model of local medical General Practices and other representatives, in which the lay members or NEDs (hereafter, for consistency, referred to as NEDs) are a minority on the governing body. There has been little research undertaken on the role of NEDs in these bodies; this paper explores the perceptions of their role through interviews with those who have contributed to either or both types of commissioning body governance.

Governance

A review of evidence of how Boards contribute to the organisations they lead (Ramsay, *et al.* 2013) finds that governance is a widely used term that has several possible underpinning theoretical models and meanings in common use. A central theme is that organisations are held to account (by systems of policy, monitoring and control systems) and are assured that the organisation is accountable to its stakeholders (such as regulators and the public).

They further propose that Boards discharge these responsibilities by formulating strategy, ensuring systems are in place to monitor and deliver progress against agreed goals, and help shape the values of the organization. To do so, Boards must understand the context of the organization, shape and use intelligence about the organisation and its users, and engage with key stakeholders such as staff, patients and the community.

The role of the NED originates in the private sector and is part of a system of corporate governance designed to help protect shareholders rights. Agency theory has been a dominant approach and considers how the agent can be prevented from working in his or her self-interest rather than that of the owner. Key aspects of the NED role include monitoring executive activity and performance and providing accountability and assurance. Within public sector governance an area of interest is the two-stage relationship between the public to elected politicians and then from politicians to managers (Hinna *et al.,* 2010).

Questions when considering agency theory in the public sector are, who might be identified as the principal? And whose interests need to be protected against possible managerial self-interest?

Early research suggested that the NED role in the NHS lacked clarity and with little evidence of contribution (Veronesi and Keasey, 2010, 2012). More recent studies that have examined healthcare boards have tended to concentrate on hospital boards and on issues of quality and safety (Miller *et al.,* 2015; Mannion *et al.,* 2017).

Chambers *et al.,* (2013) warns of the dangers of public boards copying corporate governance practices from the private sector without sufficient regard for their appropriateness to the public sector. In a later critical realist synthesis Chambers *et al*. (2017) conclude that there

remain gaps in our understanding of the skills and background needed to be an effective member of a healthcare board.

In a paper exploring public service management reform, Ferlie (2017) notes the continuing dominance of new public management and emphasis on organizational performance, despite moves to more networked approaches to meet some of the challenges in health and social care within CCGs. His paper notes the NED presence is much more weakly developed in CCGs than on the provider side.

This study

This study examines the NED role within two different types of commissioning organisations, firstly PCTs and then their successor organisations, CCGs. It has been noted that the import of the role into the public sector presents some challenges. There are expectations from some stakeholders that the NED should represent local community interests. This study explores how NEDs perceived their role and whether they saw it as a representative role with local accountability, or a more corporate one based on a private-sector understanding of the role of the NED. This gave rise to the first research question:

> What expectations did NEDS in PCTS and CCGs have of their governance role, and how was it experienced in practice?

In their review of board research, Huse *et al.* (2011) refer to the insights into identity and board roles suggested by a study by Hillman *et al.* (2008). This is suggested as an area for further research, to help understand not only what is driving board members to be involved, but also for whom – which stakeholders they see their involvement as benefitting. The assumption in much of the corporate governance literature that outside directors will necessarily work to protect the interests of shareholders is challenged by Hillman *et al*. (2008), who suggest governance roles will be influenced by the salience or strength of identification with a range of identities held by individuals.

A question that appears not to have been posed or researched before is why people may choose to take on a NED role in the NHS, which is poorly remunerated in comparison to the private sector, and what the incentive may be to take an active role rather than just acting as a "rubber-stamp" for managerial decisions. This gave rise to a second research question:

> What motivates lay people to take on NED roles in PCTS and CCGs?

Social identity theories suggest that those perceived as fellow in-group members have more influence than those perceived to be out-group members, and people engage in strategies to protect the interests of their in-groups (Tajfel, 1986, quoted in Lucas and Baxter 2012, p.64), so providing the will to act, as part of the analysis of power by Pettigrew and McNulty (1995) in corporate boardrooms.

Methodology

A qualitative approach was employed. The principal method of data collection was semi-structured interviews with a purposeful sample of 52 NEDs and Chairs from 37 PCTs across England in 2011 and 2012. This was the first data set. In late 2018 an additional eight

interviews were carried out with CCG lay members who had previously been PCT NEDs, to consider what similarities and differences there might be in the two governance roles.

All interviews were recorded and transcribed. These were then uploaded to NVIVO. Braun and Clarke's (2006) approach to thematic analysis was utilised to analyse the data.

Key Findings and Discussion

In terms of expectations of the role, two types of PCT NEDs were identified, those who saw their role as representing local stakeholders to improve a local service and those who saw their role as contributing professional expertise, such as in finance, to improve a national service. Many in this latter group self-identified as public servants and there was a strong association with values, such as "giving something back to society".

For both types, their accounts reveal an overarching role as a defender of patient and public interests, when these appeared threatened by national policies that seemed inappropriate for the local context. This included plans for centralisation of services or for out-of-hours provision. For executive colleagues, the desire to please the next level of management within the NHS, the then Strategic Health Authority, appeared to be a strong motivation, with implications for their future careers. By representing the interests of stakeholders and assuming a mode of challenge to executive colleagues, NEDs within PCTs created accountability by acting as a public voice.

Within CCGs from 2013 the NEDs continued to have a role in defending patient and public interests. However, this appeared to be less in challenging the executive directors as to the imposition of national policy, as in challenging Clinical colleagues regarding local plans. This might be over perceived conflicts of interest, where GPs stood to gain financially from service redesign or where NEDs considered them to have failed to consider fully the community's interest.

The agency "problem" (Hinna *et al.,* 2010) therefore differs between the two organisations, but the NED role in challenging self-interest remains. Generally, the power of the NED is felt to have diminished within CCGs, as they are in the minority on the board, except for the issue of conflict of interests. This is an area where guidance has been developed and where respondents did feel able to contribute to effective governance.

NEDs within PCTs and CCGs considered that a large part of their role was undertaken outside of the formal board or governing body meeting. This included meeting up informally with executive and professional colleagues to gain information or provide support. There was also a broader role than the organisational one. PCT NEDs contributed to relationships at a board level with other organisations and utilised these relationships to help organisational collaboration, where there was potential or actual conflict that might impact on patient care.

At the time of the research (end of 2018) CCG NEDs were also contributing extra time to sit on Sustainability and Transformation Partnership boards, alongside other organisations within health and social care. Across all respondents there appeared to be a high contribution of discretionary effort, which went beyond the number of days the role was expected to take.

Regarding the second research question, derived from social identity theory, the interviews explored how the NED role in the NHS might be influenced by identification with different stakeholder groups. The findings suggest the salience of a public service identity and, for

some, a salient identification with local stakeholders not only provided values to guide behaviour but also gave NEDs a stake – an incentive to act to because of the potential harm or benefit the actions of the PCT or CCG could bring to the social group with which they identified.

This incentive to act may be one influence on effort norms, which sees the NED proactively seeking additional information and prepared to attend additional meetings. A strong theme identified in analysis and a finding for this study was the proactive behaviour of NEDs in creating opportunities to gain and probe information outside of formal board meetings and committees. Acknowledging that these are self-reports, NEDs appear to have exerted high-effort norms to address the information asymmetry with managers, an aspect unexplored in other accounts of NHS governance (Abbott *et al.,* 2008; Veronesi and Keasey, 2010, 2012).

Conclusions

A key contribution of this paper is the identification of the importance of a public-interest commitment, which may be expressed either as a local public representative or a public servant working in the national interest. Both identifications provide a motivation to act with an overarching role as a defender of public interests. This notion of "publicness" is an important contribution of this study, which is underdeveloped in studies to date on boards in the NHS and an important one when considering board composition and with implications for recruitment.

NHS boards have continued to seek NEDs from the private sector who have the skills they feel will help achieve organisational efficiency. However, this study shows that the professional skills and experience should not be the only requirement. The identification with public service is an important one that increases effort norms, provides a motivation to utilise sources of power and influences NEDs to adapt their role as they see necessary to protect or promote the interests of those they feel they represent.

For further development

I intend to explore further, by way of a further literature review, the utility of social identity theories or whether notions of "publicness" and public service might prove more useful.

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