



etbi

Education and Training
Boards Ireland

*Boird Oideachais agus
Oiliúna Éireann*

Governance Training Programme

Handbook: Implementing the Code – the Role
of an ETB Director

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1 Introduction

1.1 Overview

Good governance within an ETB, as within all public sector bodies, is a shared responsibility which requires leadership, collaboration and ethical conduct by Board Members, senior executive management and all staff and stakeholders together.

Within an ETB, the Board is required to deliver its reserved functions. The Chief Executive is responsible for administration and delivery of the executive functions of the ETB. He / She is accountable to the Board and the Minister for these duties and accountable to the *Public Accounts Committee* and *Joint Oireachtas Committee on Education and Skills* for the proper discharge of the ETB's functions and for financial and compliance controls in the organisation.

As the executive functions of the ETB are a varied and broad suite of tasks related to service provision in education and training, corporate and operational matters related to the smooth functioning of the organisation. The CE is supported in delivering these by a team of Directors who execute delegated functions and support good governance, management and control of the organisation.

As well as the specifications and responsibilities specific to each directorate, there are also generic responsibilities in respect of the implementation of various legal and regulatory requirements, including the Code of Practice for the Governance of ETBs.

This handbook does not translate or transcribe the governance duties of the directors or their specific functions within their areas of responsibility for ease of digestion. It is assumed that ETB Directors are familiar with their statutory duties, the Code's provisions and its importance to the proper functioning of the organisation as a public body.

1.2 Background and Context

In January 2019, the Department of Education and Skills issued the Code of Practice for the Governance of Education and Training Boards (addressed to the Chief Executives) for implementation across the sector. It is based on the Code of Practice for the Governance of State Bodies¹. The Code for ETBs is locally contextualised and tailored to the ETB landscape, setting out the minimum standards for ETB governance.

The *ETBI Governance Training Programme* supports the rollout of the Code and this handbook is an aid to implementation across each ETB organisation.

¹ Department of Public Expenditure and Reform, 'Code of Practice for the Governance of State Bodies', 2016.

2 The Code

2.1 Overview

The Code relates to responsibilities of the ETB as a state Board, setting out broad governance responsibilities and expectations across specific roles including the Chairperson, the Board and its committees; and, by extension, the executive of the organisation as led by:

- The Chief Executive (CE);
- The Director of Organisational Support and Development (OSD);
- The Director of Schools; and
- The Director of Further Education and Training.

The Code points out that is everyone in the organisation is responsible for implementing and supporting good governance principles:

From *About this Code*:

“Board members and staff of ETBs should be guided by the principles set out hereunder in meeting their responsibility to ensure that all of their actions, whether covered specifically or otherwise in this document, meet the highest standards of corporate governance.”

While the Code does not contain sections setting out governance duties for Directors (which are derived from duties delegated to them under Section 16 of the ETB Act), if there was any doubt about its relevance to the executive positions, it should be noted that Circular 02/2019 was addressed directly to the Chief Executives of the ETBs, and the Directors are specifically noted as sharing responsibility for implementing the Code through contributing to the overall objective of ensuring that the ETB is managed in line with the requirements of the Code.

2.2 Duties of the Directors in Respect of the Code

The Code describes the function of the directorate structure as:

- Providing support to the Chief Executive in the performance of his / her functions; and
- Contributing to the overall objective that ETB functions are managed effectively and in line with Code of Practice requirements.

There are a number of specific references to and duties within the Code which are assigned to the Chief Executive which may be delegated, and some references to directorate areas, which include:

- Meeting the Chairperson in advance of Board meetings to prepare the agenda (2.1);
- Attend meetings of the Board (4.6), Finance Committee and Audit and Risk Committee (4.17) and assist these in their work (4.8/4.23) – specifically relating to the Director of OSD; and
- Compliance with law and guidance in the areas of Ethics and Standards in Public Office (Appendix 5).

There are dozens of other oblique references and inferences to the delivery of executive functions throughout the Code, which are the responsibility of the Chief Executive, supported by the Directorate structure.

In summary – the responsibilities (in relation to the Code) of the Directors are:

- ✓ **Responsibility for the Directorate Area**
 - As set out in the job spec and as delegated by the CE
 - Reporting in relation to the delivery of this responsibility

- ✓ **Supporting Administration and Implementation of the Executive Functions in General**
 - *Of the Code, the Law, Board policy & the ETB Strategy*
 - *Anything that is not a reserved function is ultimately CE responsibility – subject to provision of adequate information. Much of this can be delegated.*

- ✓ **Implementing and Managing ETB Monitoring and Control Systems**
 - *In respect of finance, audit, risk, HR, management information systems, etc.*

- ✓ **Operational leadership**
 - *Ensuring separation of strategy & operations / executive & reserved functions*

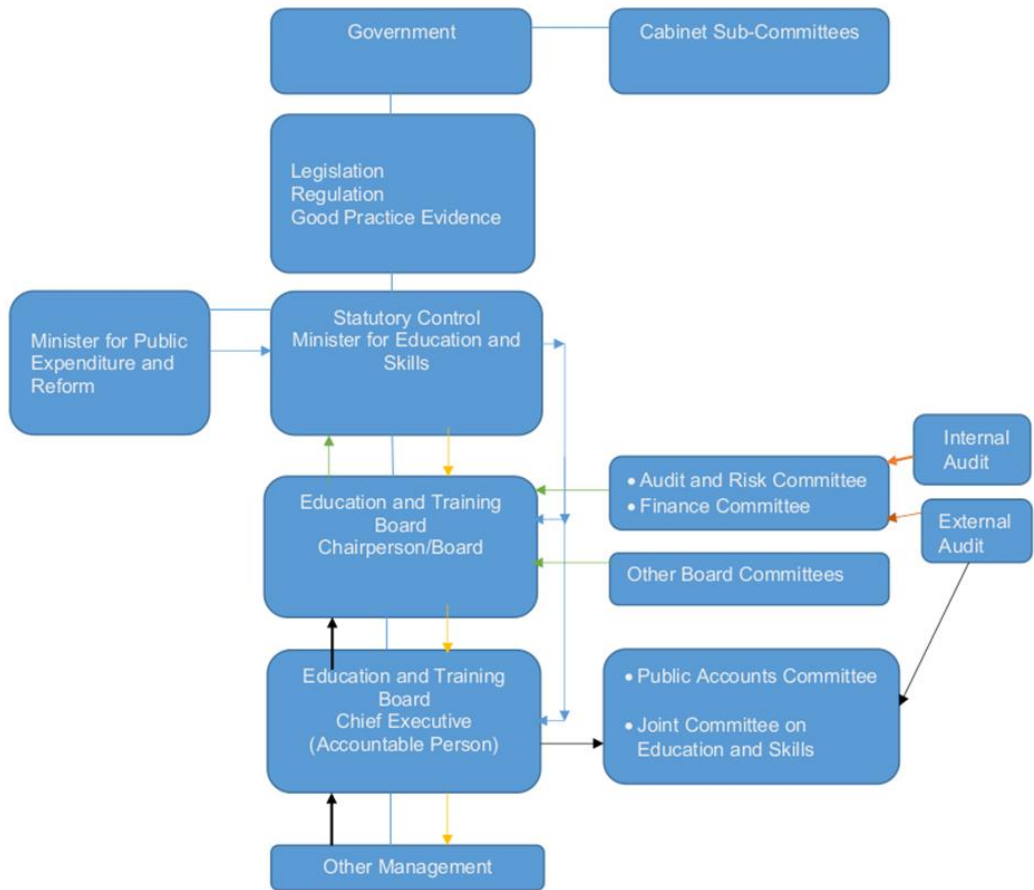
2.3 The ETB Governance Framework

The Code graphically sets out a Governance Framework, which places the executive management layers at the foundation of the flow of information and accountability for how an ETB should govern its own affairs and report to Government.

Within this overall Framework, the role of the Directors is to:

- Report to and be directed by the Chief Executive; and
- To provide operational information to the Chief Executive in order to support accountability to the Board and Government.

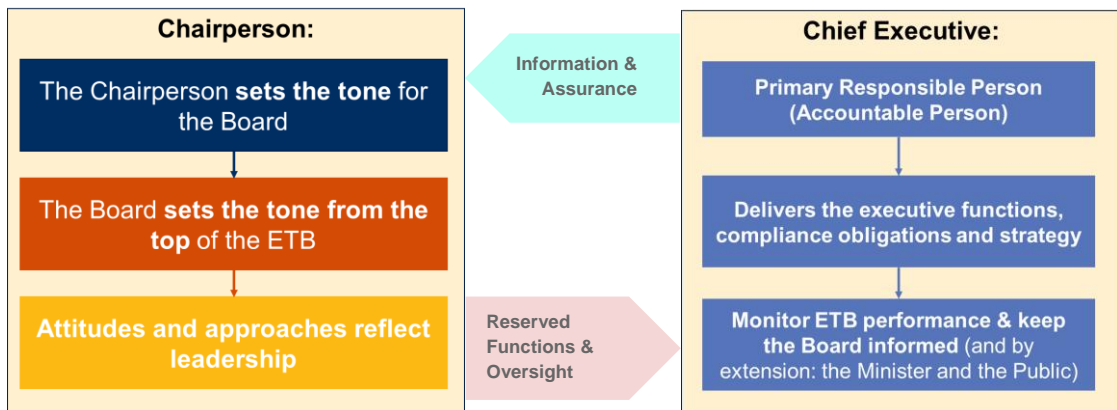
Governance Framework



2.4 The Board – Executive Relationship

Both the Board and the Chief Executive are critically dependent for the execution of their functions on the flow of management information through the ETB at a level of usefulness and frequency to support decision making and to provide confidence in the delivery of the executive functions of the organisation.

The relationship between the Board, and the Chairperson in particular, is essential to ensure this flow of information functions appropriately.



The diagram above illustrates the centrality of the relationship between the Chairperson of the Board and the Chief Executive for ensuring the smooth conduct of the ETB's business.

This relationship depends on the flow of management information through the ETB to the Chief Executive regarding operational matters and the implementation of strategic decisions.

3 Key Principles for Implementing the Code

3.1 Management Information Systems and Support to the Board

Many of the provisions of the Code, as they relate to the ETB directorate structure are concerned with ensuring that the Board is adequately equipped, informed and served by the Executive to support the delivery of its reserved functions and its strategic oversight of the organisation.

2.3 Timely Information: *The Chairperson is responsible for ensuring that the Board receives accurate, timely and clear information. The Chairperson should ensure effective communication with all relevant stakeholders. The Chief Executive and his/her staff should support the Board in the exercise of its functions and should provide administrative and other supports to the Board and to the Chairperson in carrying out his/her role.*

2.5 Information flows: *Under the direction of the Chairperson, administrative support is provided to boards to ensure good information flow within the Board and its committees and between senior management and board members.*

4.8 Support to Board: *The Chief Executive is required to assist the members of the Board in the performance of their functions in such manner as those members may require.*

The provision of information and support to the Board in this regard is open to interpretation but is in general focused on provision of information that is:

- Accurate and sufficient – to ensure a well informed and confident Board;
- Useful – as an aid to decision making;
- Timely – allowing enough time for adequate consideration;
- Presented in a familiar and clear manner – in a standardised format (agendas, minutes, memoranda, etc.); and
- Responsive – appropriately addressing the Board's interests.

3.2 Supporting the Maintenance of the Reserved / Executive Distinction

ETB Boards are prohibited by the ETB Act from executing any function besides their reserved functions as set out. These functions can be summarised as:

#	Function	Act Ref	Consent Required
1	Name change	9(3)	Yes
2	Appointment of CE	14	Yes
3	Suspension of CE	17	Yes
4	Establishment of a scholarship	24	Yes
5	Adoption of a strategy statement	27(6)	No
6	Opinion as to persons with whom the CE must consult in preparing the strategy	27(4)	No
6	Adoption of annual report	28	No
7	Acceptance of gifts or being constituted as a trustee	29	Yes
8	Authorise event attendance (by a Member)	38	<i>No, but fettered</i>
9	Establishment/dissolution of committee	44	<i>No, but fettered</i>
10	Determination of the terms of reference of a committee	44	<i>No, but fettered</i>
11	Appointment/removal from office of a member of committee	44	<i>No, but fettered</i>
12	Confirmation of act of committee	44	<i>No, but fettered</i>
13	Adoption of annual service plan	47	No
14	Power to borrow money	49	Yes
15	Keeping of accounts	51	No
16	Establishment of finance and audit committees	45	<i>No, but fettered</i>
17	Appointment and removal of member of finance and audit committees	45	<i>No, but fettered</i>
18	Receipt of report from finance and audit and determination of action	45	<i>No, but fettered</i>
19	Acquisition, holding and disposal of land	53	<i>No, but fettered</i>

It is worth noting that this scenario of the Board being firmly restricted to a set of reserved functions is somewhat unusual in governance for public bodies. Board members may take up their roles acting on the assumption that it is a matter for the Board to determine its reserved functions and to delegate appropriately.

In the case of the ETB, that function of delegation belongs to the Chief Executive for all matters besides those listed above, and the Board may delegate **only** the above reserved functions to a subcommittee and **only** in circumstances where this aids the execution of the function, or for the purposes of consulting and being advised.

One of the biggest challenges facing the ETB executive is ensuring that the Board does confine its actions to the reserved functions, while informing and updating the Board about executive matters.

The role of the Directors in this regard is to assist with the provision of appropriate assurance to the Board that the executive functions within their directorate areas are executed properly.

In this regard, it is worth recalling that:

“A chief executive of an education and training board shall provide such information to the board, regarding the performance of his or her functions, as that board may from time to time require.²”

This is a matter of judgement in some cases, but in the context of the Code and legislation this relates to keeping the Board apprised of:

- Establishment of internal controls;
- Development of organisational policies and procedures;
- Financial management;
- Risk management; and
- Strategic planning and operational planning.

It is important to note that the objective here is not to seek specific approval of the executive's actions through any form of Board resolution, but to provide appropriate levels of information and to assure the Board that executive functions are being adequately managed.

A positive reporting technique for matters not requiring a decision is the following three step model which can be applied to reporting to the Board about the majority of operational matters:

² Education and Training Boards Act, 2013, sec. 15.

What action was required?	Did the action take place as planned?	How did it go?
<ul style="list-style-type: none"> - Was there a policy or procedure to follow? - Was there a Board or statutory direction to follow? - Was action driven by executive judgement? 	<ul style="list-style-type: none"> - What were the results of action (if any)? - Were any challenges overcome? - What costs were incurred? - Did any risk arise? 	<ul style="list-style-type: none"> - Were you satisfied with the outcomes? - What are the implications of the action? - Will the Board expect to be informed about the matter in future?

3.3 Briefing and On-boarding

As the saying goes: “Well begun is half done”, and to this end one of the critical duties of the Chief Executive is to arrange for a briefing for new Board Members. This briefing must address:

- That the Board leads the ETB and holds the CE to account;
- What the statutory functions and obligations of the Board are;
- Relevant legislation and regulation (including the Code), and information on how to stay abreast of developments therein;
- The reserved functions;
- Procedures for Board meetings and decisions outside of meetings;
- Explanations of the ETB’s financial and other systems of internal monitoring, control and reporting – including internal audit;
- Details of the Internal Audit Unit and the C&AG’s role as external auditor;
- Details of the ETB’s subcommittees;
- The Code of Conduct for Board Members & the ETB’s Standing Orders;
- Information about Conflicts of Interest; and
- Information about access to the executive for support and advice.

As can be interpreted from the above list, a goal of the briefing and on-boarding process is to help Board Members to understand how the ETB and its executive functions to carry out their duties and to implement the ETB’s strategy and service plan.

The initial briefing for Board members is for more than the provision of information about protocols, obligations and the reserved functions. It is a unique opportunity to establish the expectations for how Board members ought to conduct themselves in terms of independence, confidentiality, fiduciary responsibilities and attendance; and to encourage them to seek advice and support for meeting these expectations from the executive throughout their tenure.

It is a critical time during which directors have an opportunity to build understanding within the Board about their domains of responsibility.

4 Summary

The objective of the Governance Training Programme and this assignment is not to articulate in detail the implementation considerations for every provision of the Code, but to highlight the key success factors for implementing the Code across ETBs.

For the role of individual directors, among the key considerations for supporting good governance and effective implementation of the Code are:

- Ensuring adequate management information flows throughout the organisation up to the Board;
- Supporting the maintenance of the Reserved / Executive distinction within ETB governance systems; and
- Contributing to the initial briefing and on-boarding process for new Board members.

Ultimately, the objective of implementing the Code is to set a leadership tone for the organisation which is focussed on ethical conduct and effective implementation of both reserved and executive functions.

It is important to note, again, that the directorate structure forms the foundation for the implementation and information systems that support the proper functioning of the ETB Governance Framework.