Self Regulation and Private Providers in Work Based Learning

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Executive Summary

This research project examined self regulation for private providers delivering work based learning within the learning and skills sector. It explored the level of awareness about self regulation across a sample of private providers, the possible significance of context and size of provider, and the potential impact on leadership of private providers. The most striking finding was that the voice of private providers has rarely been heard unless they are members of the Association of Learning Providers. The research also found numerous definitions of self regulation. Generally levels of awareness were most acute with those working in larger providers where resources and capacity of staff was more prevalent. The variance in understanding about self regulation typically varied according to size of organisation. Peer review was seen as a positive improvement driver. The commercial nature of many private providers also brought interesting challenges and some reticence about sharing information around business models.

Introduction

This research focussed on private providers representing those delivering learning to thousands of employees in the workplace. The journey to self regulation (SR) following The Foster Review in 2005 has seen many attempts to reduce bureaucracy and minimise the number of quangos in the learning and skills sector (LSS). The emergence of the Single Voice with representation from across all providers within the sector appeared to provide a focus for developing a code of practice and standards for the evolution of an SR model.

In this research project, the following definition of SR was used as part of the discussions with private providers and networks:

‘A condition where the rules that govern behaviour and activities which enforce them in the sector ….. which are currently undertaken outside the sector are undertaken, where appropriate, by or for the learning providers or organisations which represent them.’

(The FE Sector Self Regulation Implementation Group: Proposition Phase 1 paragraph 1.7. p.6)

There has been much debate on regulation since this project started and there is often a view that we now need more, not less regulation, particularly as a result of the recent UK banking failures. Everyone now has a view on regulation in its widest sense and understandably SR within the sector has become part of that wider national debate.

However, messages emerging from the financial crisis, the media intrusion into the private lives of individuals, the failures of the NHS and Children’s services across the country all contribute to the wider debate and implementation of any regulatory system for the LSS. A common factor across all of these stories is the way that people behave.
Draconian laws to regulate the failures and mistakes made by leaders regarding Baby P, the chairs and chief executives of banks, leaders of NHS trusts and other high profile cases are unlikely to be ‘the answer’. Public outcry is an important barometer of how the population feels about these issues, but no amount of regulation will completely change behaviours.

Research Framework

Little primary research has been conducted into private providers who make up a very important element of the LSS. These organisations contribute significantly to the crucial employer engagement agenda and yet have been almost completely ignored by research and indeed participation on many policy decisions and consultative groups over the years. Whilst the Association of Learning Providers (ALP) is an exception, not all providers are represented in this forum. ALP is the only large representative body for private providers. This is in stark contrast to the college sector which has significant representation. Indeed The Association of Colleges has appointed a specific role of President to be the ‘voice’ of colleges and who is regularly quoted in both the educational press and the wider media.

This research started against the backdrop of The Single Voice Prospectus. Representing key organisations from across learning and skills, Single Voice had proposed to the DIUS a system of SR. This aimed to ensure that all providers receiving LSC funds could demonstrate their capacity for continuous improvement and high standards. The wider sector would aim to assume direct accountability for its performance and reputation. The original thinking has developed during the period of this research through a range of feedback methods. The original SR model has evolved towards a co-regulation model which assumes a mature relationship between those involved with OFSTED, Audit, Governance and best practice, including peer review. Fundamentally this is perceived as a continuum along which organisations would sit dependent upon their level of maturity for implementing SR.

Providers would therefore need to be able to demonstrate that they are capable of self regulating their own affairs. These may include:

- Responding to the needs of learners, employers and communities;
- Setting performance and standards;
- Benchmarking performance;
- Identifying and sharing good practice;
- Operating as effective organisations;
- Managing risk and under performance.

Each provider would be expected to set out its own approach to organising each aspect. The Single Voice would take a lead in developing guidance standards including self assessment. The ALP is represented on the Single Voice by its Chief Executive, Graham Hoyle.
Five sub groups were established to drive the key actions forward.

1. The Single Voice for Self Regulation
2. The FE and Training Bureaucracy Reduction Group
3. The FE Reputation Strategy Group
4. The Information Authority
5. The FE Communications Gateway Panel

All of the above are chaired by individuals who are currently in a principal’s role or previously held the post of a principal in an FE college. The implicit message to the private providers delivering work based learning (WBL) was that colleges dominate the SR arena. If we look further to the membership of each of the groups there are a couple of representatives from ALP but no other voice of private providers across the groups. Given that there are approximately 20 – 25 people associated with each group, including observers and civil servants, it reflects representation from private providers of less than 2%. If SR is to be for the sector, by the sector and owned by the sector then commitment from private providers with the current models will be extremely difficult.

Research Context

There are some clear examples of where contributions to de-regulate have begun. The LSC has reduced its audit, planning and reporting requirements from providers. The merger between OFSTED and ALI has simplified inspection and the emerging framework for excellence and self assessment process has strengthened the quality of providers’ internal processes and development work. It was in this wider context that levels of awareness were gauged amongst the private providers and networks interviewed.

The intention of SR was to create greater autonomy for individual colleges and providers to operate their businesses with reduced intervention by Government and its agencies. This would also enable providers to focus more resources on their primary objective of delivering responsive, high quality and coherent provision to meet the needs of their customers: learners, employers and communities. Central to the development of SR originally was the creation of a ‘Single Voice’, a body that will speak on behalf of the whole of the LSS. This involved bringing together the key representative organisations into a single body (Association of Colleges (AOC); ALP; 157 Group; Mixed Economy Group (MEG); the National Network of Local Adult Learning Providers (HOLEX); Land based Colleges Aspiring to Excellence (LANDEX); the Association of National Specialist Colleges (NATSPEC); National Institute of Adult Continuing Education (NIACE); and Sixth Form College Forum (SFCF)). Only one of these bodies represents private providers in the sector – the ALP.

The Single Voice was to be the main channel of dialogue between the sector, Government and its agencies on regulatory issues including the development of SR. It would articulate to providers the expectations of Government and its agencies in order to reduce the number of conversations a provider has with different agencies/departments. It was also to represent the needs of the sector in dialogue with government on regulatory matters.
With greater autonomy comes greater responsibility. Underpinning SR will be a performance management framework supported by a code of conduct to which all providers will be expected to adhere. The framework and the code of conduct were to be developed by the Single Voice in collaboration and consultation with providers. The code of conduct will demonstrate providers’ commitment to SR and the standards against which they are prepared to be held account, individually and collectively, by their stakeholders. There was also an intention to work with Lifelong Learning UK as the sector skills council and The Institute for Learning to ensure that all those who work in the sector are professionally qualified and take responsibility for continuously improving their development.

The widespread recognition that ownership of improvement is vital to its success and the explicit commitment to move towards a self-regulating system raises the stakes in terms of sector performance. However, it is clear that a self-improving and self-regulating culture will require substantial review of systems in terms of individual professional performance, organisational and sector performance, and a step-change in terms of leadership and governance capacity in the sector.

In a speech to the Policy Exchange in November 2008 entitled ‘The Right Kind of Regulation’, Oliver Letwin stated,

‘Arguably some of the biggest failures over recent years have been failures of regulation. Some of these failures have been about under regulation. Notoriously, bank lending has been under regulated, Haringey Children’s services were under regulated, but other failures have been about over regulation. Doctors, nurses, teachers, colleges, police officers all complain about being over regulated. Small businesses and the voluntary sector scream about being over regulated and farmers are driven mad by regulation.’

Letwin identified two types of regulation. Type A is rule-based and often has the form of law. It prohibits certain actions and mandates others. Proponents of Type A believe that following the processes will guarantee the results which the rules are designed to deliver. In Type B regulation, the regulator supervises the activity in question on the basis, not of rules, but of professional competence. It is not rules-based but judgement-based. This augers well for the LSS and the emerging theme of co-regulation. What counts is the ability of professionals engaged in the regulated activity to satisfy the colleague professionals doing the regulating that they are properly living up to their professional responsibilities. This is the model that is seen as most suitable for the sector. However, the concept of behaviours emerges again as regulation does not form a sense of duty, a sense of professional ethics which lead to a connection with professional responsibility and a social responsibility to behave in the best interests of the greater good rather than personal gain.

In the wider political arena, the Government’s better regulation agenda aims to cut across industries to provide a much more transparent, accountable, proportionate and targeted regulation. Parallels for many WBL providers can be drawn from the research into regulation and Small Medium Enterprises (SMEs) (Anderson 2009). In this report the complexities of regulations for SME businesses are highlighted and recommendations for removing bureaucracy clearly made.
The Anderson Review reported on the best way to deliver regulatory guidance to small and medium enterprises and the voluntary sector. The conclusions drawn resonate well with the emerging findings of this report. The small and medium private providers of WBL have exactly the same issues as small and medium businesses elsewhere. Sarah Anderson OBE the author of the Report was interviewed as part of the research for this project and many similar issues were identified between small and medium size businesses regardless of the sector. They often have limited resources to access effectively all the myriad of government and sector-wide documents and guidance. Their concerns make running a small business even harder and more risky especially in this tough economic climate. Regulation needs to be simple, clear, fit for purpose and size does matter.

The 157 Group of 26 large FE colleges in England, all of whom have been graded good or excellent for leadership, may also offer a contribution to the solution going forward. SR will require strong leadership and governance at the local level to ensure delivery of goals and maintain the momentum for improvement. The 157 Group proposes large successful colleges may be best placed to facilitate local and regional networks of providers in order to steer regulation across the sector. When this was posed to the private providers interviewed they welcomed an opportunity to work as part of a wider umbrella of providers. Indeed many would be keen to explore this further. However, there was a consistent message that the responsiveness and flexibility which smaller providers believed they had must not be slowed down as a result of any umbrella organisation. One provider said that they felt some private providers would “run a mile” from the College hub model, as they believed it would seriously slow down their ability to be responsive to employers and it would add to bureaucracy rather than detract from it.

Research Methods

This research concentrates on a group that has rarely been involved in research and yet has an important contribution to make to the wider policy debate for learning and skills. Private providers have a particular strength engaging with employers and delivering learning in the workplace. The interviews were drawn from a relatively small sample of providers of different sizes but the common features and messages from the feedback indicate a strong view from the private providers that would potentially be echoed in a larger sample size.

Providers were sent the context details above, details of the Single Voice prospectus and LSIS seminar and then asked a series of questions to stimulate discussion and debate around the SR agenda:

1. **Awareness**: How aware are WBL leaders about SR and its purpose? What are the implications for the local delivery of their service to learners and employers and indeed their own business needs? How much involvement has there been so far in the SR developments?

2. **Impact**: Can SR be a help to the business needs of WBL providers? Can Peer Review provide benefits for the WBL sector and can it add value to the business needs? What key challenges will need to be addressed by providers of different sizes and capacities? How would governance issues be addressed?
3. **Context and size of WBL organisations**: What are the specific issues for organisations in the private provider arena? How do the needs of private providers differ and how is this likely to shape the implementation of SR nationally? Does size matter? Can a provider with 100 Apprentices working in only one sector be part of a framework created for large multi-sector organisations? What are the critical issues that need to be addressed if SR is to be implemented across the sector?

Over a 5 month period, we conducted 15 confidential interviews with leaders or senior managers of Work Based Learning providers. This included 2 large providers (over £10M annual revenue), 5 medium (between £1M and £3M annual revenue) and 8 smaller providers (less than £1M annual revenue). An assurance of anonymity for all the interviewees from the small and medium private providers was important as many felt vulnerable in a culture where they perceived the Colleges as having a louder and indeed stronger voice.

The sectors covered were: Care, Logistics, Manufacturing, Retail, Engineering, Construction, Business and Automotive. The geographic spread covered: Yorkshire and Humber, South East, South West, East and West Midlands, North East and North West. The large providers and 5 of the medium providers were delivering nationally. The types of qualifications and provision offered by the providers covered a wide range from Entry to Employment for 16 – 19 year olds, NVQs levels 1 – 3, VRQs, Learndirect, Apprenticeships (including adult apprenticeships) and Skills for Life.

In addition, 7 consultative discussions were conducted to gauge a voice from people involved in Work Based Learning either in a representative role or through involvement in sector wide work. These interviews comprised:

- A senior manager who has worked nationally on peer review;
- A senior manager from the Association of Learning Providers;
- Two senior managers from networks and alliances for the Care Sector;
- A senior manager from a Regional Development Agency;
- The leader of a Government commissioned report into regulation of small and medium businesses in England. This was to provide a comparator of emerging regulatory issues for small and medium businesses generally;
- Finally to seek a voice from the College sector on perceptions of private providers that SR was college dominated, a meeting was held with the Chairman of the 157 Group of Colleges.

Literature research was also conducted:

- Research WBL provider involvement in ‘bureaucracy-busting’ activity;
- The Single Voice prospectus;
- Peer Review activity and outcomes;
- LSIS seminars 2008/09;
- Collaborative enquiry, action research, interviews, desk based research and participation in network and consultation events;
- Consultation with a number of key stakeholders involved with the self regulation debate and activities;
- A literature survey to consider all of the work produced on reducing bureaucracy and SR;
- Investigation of work being carried out by the College sector on self regulation.
Research Findings

The research found that levels of awareness about the wider policy discussions on SR were varied, with the larger providers essentially having a greater level of awareness. Often senior managers had either attended events, or been part of feedback groups on the original bureaucracy busting groups and the subsequent offshoots leading to the Single Voice prospectus. Small providers with annual revenues of less than £500K were much less likely to have been involved and had least awareness.

A provider offering a range of qualifications across several sectors in the South East region said: “I had never heard of self regulation until I attended the LSIS conference. Hearing about the research and finding out more has stimulated an interest and I now have a clearer understanding of what may be required. However, my business is relatively small so I am keen to find out how implementation will be addressed.”

Members of the ALP have been consulted and some members have attended seminars and events. Providers associated with ALP undoubtedly had the greatest levels of awareness and this reflects the fact that all the wider provider networks had been part of a number of roadshows on SR delivered by ALP across the country.

A senior manager from ALP stated:

*A whole host of people need to stop doing what they are doing and do something else. For example – Ofsted coming in to providers is not negotiable, but what they do can be under a self regulation model.‘

At the annual ALP national conference, space was also given to a headline presentation by key speakers on the subject of SR. In addition to the face to face communications, ALP also uses its regular newsletter, ‘Countdown’, to keep members updated.

One of the interviewees, an owner manager of a successful, high quality training company, is one of a relatively small number of private providers who have taken on the mantle of peer review and assessment. The lead provided by her training company has brought together other private training providers with a peer review of each organisation’s self assessment at the core. This parallels much of the work within colleges on peer review.

The assumed benefits of SR were communicated as part of the research and summarised as follows:

- Increased resources to improve the service as less resource spent dealing with bureaucracy.
- More collaborative working towards the goal of continuous improvement.
- Tackling of under-performance.
- Licence to practice – in recognition of fitness to receive public funds.
- More efficient use of public funds as less would be spent on regulatory bodies and inspectorates.
- Create an effective dialogue on regulatory matters between the sector and Government.
The research found that, generally, levels of awareness were very dependent upon size of organisation and also closely linked to whether or not providers were part of other networks. An owner/manager of one of the providers interviewed stated:

‘I am very positive about self regulation but it will be a challenge to implement. Framework for Excellence is already proving costly to implement and I can see further costs for introducing SR.’

However, several of the providers and one of the representative bodies stated that they would ‘run a mile’ from a College hub model where a college held the funding for a locality. A private provider in the South East stated:

‘It has taken me 4 years to build up a strong team of staff and if I start sharing their knowledge with other local providers I may lose competitive advantage. My business can only afford average salaries and some competitors locally or even regionally may steal my staff.’

In summary:

- The research found that different people have different understanding of what SR is. Some thought it was about peer review and quality improvement, whilst others saw it as an additional burden of regulation, on top of the current regime of OFSTED and audits.
- Some know very little about the aims and developments surrounding SR.
- For many small and medium training businesses it is not an important driver at this moment.
- If SR was mandatory or likely to be, then providers would give it greater priority.
- Some who are actively involved in provider groups have much greater awareness.
- Members of ALP have been consulted and some have attended awareness seminars and consultation events.

**Impact**

Given the limited knowledge and awareness levels across those sampled, consideration of impact has not been well thought through by most providers at this stage. Peer review is seen positively and those involved can see benefits for quality improvements. Providers, however, express some reticence about sharing information on a commercial basis. There is some concern that a separate model may be developed for WBL providers and this could create further duplication and add to the burden of regulation, rather than reduce it. For many of the small providers it was seen as another tick list with increased bureaucracy at a time when funding based on outcome is already putting strains on cash flow and working capital.

One of the interviewees is working actively with the college sector and with the Sector Skills Council in the Care sector – to champion the voice of the private providers. She states:
‘If a provider already has many of the current kitemarks such as: Investors In People; Matrix; Training Quality Standard etc… then every aspect of the business is already badged, what else can realistically be added without adding bureaucracy?’

A small provider in the Midlands questioned whether there is a need for SR at all, as there is now going to be a Qualified Provider Status – which they viewed as ‘licensing by any other name’.

There is a perception amongst leaders of WBL organisations that they have insufficient representation on The Single Voice and its various sub groups. This has created a concern that any models will favour the college sector and private providers will have to follow a regulation model that does not fit.

In terms of impact for WBL providers of implementing the Performance Management Framework’s 4 sets of responsibilities, there was some concern about overlap with current regulations and frameworks which could create an additional layer of regulation. Questions were asked about the timing of new models whilst running parallel with existing frameworks and the point was emphasised that this could again have negative impact by diverting crucial staff and resources from day to day business needs.

A provider in the East Midlands commented:

‘I knew nothing about SR before this interview. I have been involved in peer review and found it helpful, but the skills required in my organisation to deliver SR will mean that I am the one who will have to take the lead. I am already operating as Managing Director and indeed manager for: finance, human resources, quality, marketing and anything to do with the LSC. There are not enough hours left in a day to do more. Something will have to drop off the edge to make way for SR.’

The self assessment process was seen as a positive step by most providers and the LSC move to qualified provider status is also seen in a constructive way as a form of licensing for the sector. A consistent message throughout the research was that, if SR is to be successful, then providers of every type and size should be doing less not more.

**Individual Responsibilities of Leaders**

The aim to increase professional capabilities of those working as private providers will create real challenges for small and medium organisations as the majority do not have Boards or trustees. This will inevitably mean that the accountable body will be the chief executive or managing director who is often also the owner of the organisation. A provider with an annual revenue of approximately £400K commented:
‘We had inspectors in for 4 days recently and there was absolutely no capacity for any of our staff to do anything else whilst they were here. I rely on trying to get new sales every day and in bringing in new business weekly. I spent most of the week driving inspectors to our various workplaces to see learners. However, our learners are dispersed across all of the South East region and therefore the inspectors only saw a tiny element of our provision. Work based providers operate mainly from workplaces and the current regimes don’t necessarily recognise the importance of this when inspecting. Our grades were good but our business suffered the week the inspectors were in.’

The use of carrots and sticks with regard to SR was also discussed and the feedback was illuminating and candid. Some providers felt that it was not always in their best interests to be entirely accurate with a self assessment as the motivation differed depending on the audience and the timing. If OFSTED were due then it was good for it to be accurate as they would be measured against the SAR. However, if they required support in some areas from budgets available from the LSC or LSIS then it made sense to identify this and seek financial and professional support. A third and significant issue was the SAR could arise with the LSC during funding allocations. If the SAR was entirely candid and a provider was relatively new or had introduced a new sector then they may not have had time to embed delivery models. They may therefore struggle to ensure good minimum levels of performance over a short timescale and so may have funding clawed back before they had a chance to prove themselves. So the question was asked about the validity of the SAR as a tool for many audiences – could it be a document and process that created certain behaviours depending on the audience?

The question of leadership and development was frequently highlighted during the research. The current statutory Principals’ Qualification Programme was not seen as relevant by the vast majority of private providers. They perceived that there is an inequality between Colleges and private providers in leadership development. However, there was an appetite for a programme of a similar nature that was more attuned to the needs of private provider leaders and this would be warmly welcomed and was also seen as a key part of any regulatory evolution for the sector. In summary:

- Peer review is seen positively and this is supported by all the private providers.
- Providers, however, express some reticence about sharing information through peer review about business models and commercial details. However, this is unlikely to be much different from colleges sharing financial information and the reticence associated with this.
- There is some concern that a separate model may be developed for WBL providers and this would create further duplication and add to the burden of regulation, not reduce it.
- For many of the small providers, SR was seen as another tick list with increased bureaucracy at a time when funding based on outcome is already putting strains on cash flow and working capital.
- There is a widespread perception that there is insufficient voice at the table for The Single Voice and its various sub groups. This has created a concern that any models will favour the college sector and the WBL sector will have to follow an incompatible model.
- Leadership development is an important consideration.
Context and Size of Provider

There are several thousand training organisations operating in the WBL arena. Many of these providers are working through colleges and larger private providers as franchise partners, so their regulation is actually under the wider governance of the funding partner. Franchise and partnership contracts are in place and there is an assumption from these providers that SR would sit with the college or larger provider accessing public funding. However, there are still a significant number of medium and small providers who are struggling with the concept of SR. They primarily see it as additional work to the current regulatory activity and therefore they could not envisage any real benefits as they believed they would have to resource SR on top of the current regime.

It is estimated that over 85% of private providers have less than £1M annual turnover. If this is compared to the annual revenue for colleges there is a large discrepancy in available resources to self fund SR. The large players are few in the private provider arena, but they are perhaps better equipped to manage a SR model. It also raises key questions about optimum size before individual organizations could be expected to take on the SR agenda.

The ALP is the only representative body for WBL providers and has approximately 450 members, of which 50 are colleges. The voice of ALP has been at the table of the Single Voice but colleges are represented much more widely and actively at this forum and its sub groups. This creates a message that the colleges will lead on SR, and private providers will have to fall into line with what will be best for the colleges. Even if this is not necessarily true it is a perception amongst many private providers.

Many of the small providers are commercially focused and have business models that they are reluctant to share – so the culture required for successful peer review is key. An increasing number of colleges are more used to sharing good practice and having staff move into different roles and into different colleges so a culture of sharing is more common. The mission of many colleges to contribute to their local community is also different to many small private providers who aim to deliver a competitive business model that is a commercial success and therefore contributes to the economy.

A medium sized provider in the North East thought that ‘Peer review could be a threat in a commercial environment’ and did not welcome colleges or other providers having access to financial information. However, he was keen to develop the quality aspects of such reviews.

Low staff numbers in small providers also impacts on availability and indeed capacity and willingness to participate in voluntary activity such as peer review, as it can detract from the day to day running of small businesses. Most SR /peer review activity for WBL private providers has been funded by LSIS, its predecessor or the LSC. A question frequently raised in the research was whether this activity will continue without pump prime funding.
Conclusion

The argument for SR was seen as something more readily understood by colleges than by most private providers. It was perceived, rightly or wrongly, by many of the providers spoken to, that the Single Voice Prospectus had been produced by the college leaders. ALP was not seen as having a loud enough voice by many providers. Indeed a significant number of smaller private providers are not represented by ALP and therefore their view was that they had no voice in the emerging debate on SR. In this context they were delighted that this research was providing a voice to contribute to the wider policy.

Fundamentally learners, employers, staff, governors and the communities served by the sector want less paperwork, less meetings, less committee decisions that take too long and for the individuals involved in regulation to have credibility and trust. Many private providers interviewed feel that their voice is not well represented and that their experience is not well voiced at either the strategic level or within the key operational sub groups such as the Reputation Group.

Large providers such as VT, JHP, A4E are represented at consultation events and activities but there has been no suggestion so far that leaders from these organisations could or indeed should lead a regional or national network of providers across a SR framework. All in all a whole host of regulators and inspectors need to change what they are currently doing. OFSTED has an overarching quality inspection role and this is not seen as negotiable. However, according to many private providers, what should be negotiable is what they do when they come in to inspect. If inspectors do not reduce other activities, then SR will always be additional to, instead of replacing current regulatory activity. The parameters and criteria should be negotiable dependent upon level of risk.

During the SR consultation activity within the sector over the past few years the following points were made:

1. A provider’s own self assessment and internal processes are centrally important.
2. Positive views and feedback from learners, employers and communities should provide evidence for funding decisions.
3. Peer review and support is a central plank for collaboratively progressing this agenda.
4. Framework for excellence requires a common output based performance framework linked to OFSTED.

The joint protocol established with the FE Reputation Group, The Bureaucracy Reduction Group, The Information Authority and The FE Communications Gateway Panel has given small and medium WBL providers little assurance that any of the activity will have much if any impact on them as owners of business, where accountability and reputation lies within their business – usually with the owner. The capacity to provide staff to sit on these groups, which many perceive, rightly or wrongly, as ‘talking shops’ is negligible. Many private providers with an annual revenue under £2 million have to ensure that their business does not suffer as a result of having to attend external meetings/events that are not business critical.

Further exploration around the concept of peer review and assessment for the private providers could add significant value to the SR journey. There are issues around confidentiality but much to be learnt from the excellent work from the college sector on peer review.
The key challenge for small and medium WBL providers is confidentiality. This includes the financials, the processes, the unique business models and staffing for a private provider. There is much sensitivity around sharing information and it going into the hands of competitors through a hub and spoke model led by a large college or indeed a large private provider. All providers were concerned about finding the time and capacity for participating in peer reviews, especially if all the other external regulators will continue.

The fact that participation in peer review and development is not mandatory and yet it would appear to be the core of the collaborative responsibilities in the Performance Management element of SR, raised further questions for WBL providers. It was perceived by many as a “nice to do” rather than regulatory or business critical and therefore would not necessarily be given the resources and ultimately would not happen. This immediately raises questions as to the scalability and relevance of a common framework across the whole sector.

If there are core components within a framework that are compulsory and some voluntary then what is the motivation for organisations to participate in the voluntary elements?

The sector-wide responsibilities for system review and development aims to develop an FE code and associated licence to operate based on a number of Key Performance Indicators. Many of these will be from the verdicts of OFSTED, the National Audit Office and LSC and financial auditors and therefore already have substance and have been well embedded over many years. The task for SR will be to provide regulation against the non-external indicators. This requires trust and time.

Minimum Levels of Performance, level 2 and 3 targets, Training Quality Standard and other key performance indicators can all play a role. If these standards are not recognised as going some way to managing SR, then why are we using them? If the ‘sector’ is to be the initial power to deal with underperformance before any action is initiated by funding bodies then what will be the restrictions? Will these be limited to quality improvements and not audit or financials? Certain regulatory rules – if breached – need decisive and immediate action to remedy or address. The private providers interviewed were again perplexed as to who held ultimate power to withdraw funds or withdraw poor quality programmes. Therefore the question was continuously raised as to what exact powers would sit with the ‘guardians’ of the FE code?

The impact of SR on many small providers was increasingly seen as something else in the galaxy of quangos for the sector. The appetite for getting involved in something else within this galaxy was seen by WBL providers as a low priority.

The emerging view is that the Single Voice was encouraging collaborative SR in an economic climate that meant many small and medium providers needed to be increasingly competitive to remain in business. There was a perception from some private providers that colleges were large enough to withstand the challenges faced by the economic downturn, but many smaller providers needed to concentrate on cash flow to keep their business viable. Colleges were perceived as perhaps having to adjust but would not be in danger of going under because their cash flow was less volatile.
Leaders of private providers do not yet have the same advantages for leadership programmes as leaders of colleges such as the Principals’ Qualification Programme, the Aspiring Leaders course or the various college focused managers’ development programmes. The question was raised as to whether private providers would be seen as second best, or followers rather than leaders, as the impetus for SR drives ahead. All new principals follow the POP via statute but no such regulation on leaders of private provider of LSC funded training organisations is in place. Does this set up inequalities from the beginning?

Recommendations

- To make SR applicable to all within the LSS, much more needs to be done to raise awareness with small providers who are not part of ALP or other Networks.
- The level of maturity in the private provider sector for small and medium providers is not the same as the college sector – one size may not fit all.
- Leadership development programmes need to be steered more towards the private provider market to ensure relevance to the differing needs. The current Principals’ Qualification programme is open to private provider leaders but take-up is minimal and the majority do not see the PQP route as appropriate for their needs.
- Larger providers are much more mature and have better knowledge and awareness but are still concerned that their voice is not heard loudly enough.
- The cost of implementing SR for the WBL private providers may be high relative to that in colleges where the levels of awareness are much greater amongst leaders. Consideration of funding and support for initial years would be crucial.
- Better representation on the various groups by private providers will contribute to increased knowledge, awareness and solutions to implement SR. Expertise from private providers is important and will add value to the wider policy activities.
- Further work to be done with peer reviews as this is seen as a positive and is helping to develop maturity.
- A toolkit of measures and controls to be developed for providers as they increase in size to reduce risk. Keep it simple and have a phone-in helpline, free for the first year.
- The LSC’s own risk assessments and financial health assessments need to be more transparent.
- Offer commissioned contracts to new providers for a 2 – 3 year timescale to enable necessary support and guidance to “get it right”. This will allow new entrants to the market and also provide a support framework to ensure success and minimise risks.
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Mariella Frostup, *'Draconian Laws are no way to reform our ravenous media.'* The Guardian, March, 2009


Between 2006 and 2009, the CEL/LSIS research programme was directed by Professor David Collinson of Lancaster University Management School. During this time the programme published 12 edited volumes of practitioner research reports, 6 individual practitioner research reports and 20 individual HE research reports, all exploring leadership issues in the learning and skills sector. All these publications are available from LSIS (in hard copy) and from the LSIS website (http://www.centreforexcellence.org.uk/default.aspx?Page=PractitionerProjects) in electronic form, as follows:

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