

A Corporate Governance Framework for Sector Education and Training Authorities (SETAs)

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ABSTRACT

The establishment of Sector Education and Training Authorities (SETAs) was initially seen as a lifeline for a country plagued by massive inequalities in income and skills provision. The continuous supply of skilled professionals and core skills remain the foundation for a competitive emerging economy and young democracy such as South Africa. SETAs are established for a five year period and are aligned to the financial year of government. The SETAs attracted much media attention as a result of poor service delivery primarily attributed to poor corporate governance. Despite the many positive contributions by SETAs, they remain the most criticised entities in post-democratic South Africa. Corporate governance is important for managers in organs of state (more specifically SETAs) policy makers in the field of public administration and politicians. The board of a SETA is ultimately accountable for the implementation of corporate governance. The article assesses the role of the board, accounting officer and audit committee among others and the legislative framework supporting the implementation of good governance. The analyses show an unstable framework of operation in SETAs and this is further complicated by the lack of skilled human resources specifically in financial management.

INTRODUCTION

Sector Education and Training Authorities (SETAs) were established following the promulgation of the *Skills Development Act*, (SDA) 97 of 1998. On 20 March 2000 the Minister of Labour established 25 SETAs under the SDA for a period of five years. The SETA was seen as the proposed solution to the skills shortage in South Africa. SETAs operate in terms of the National Skills development Strategy (NSDS) titled "*Skills for productive*

citizenship for all", that summarises the vision for future skills development to eliminate illiteracy and create a pool of skilled people in all economic sectors (South Africa 2000). On 1 April 2005, the 25 SETAs were restructured. The restructuring resulted in 23 SETAs. The SETAs that were merged were Primary and Secondary Agriculture and Safety, Security and Police (South Africa 2005). The Minister of Labour was the executive authority of SETAs until 31 October 2009. With effect from 1 November 2009 the newly established Ministry of Higher Education and Training took over as executive authority. The financial year that commenced on 1 April 2011, marked a historic third five year period of existence for SETAs.

PURPOSE AND RATIONALE

SETAs have been at the centre of media attention for the last five years. SETAs have been lambasted by the news media for poor performance, maladministration and fraud and corruption among others. The primary reason has a direct bearing on corporate governance. The Auditor-General indicated in its report for the 2006/07 financial year already that out of 23 SETAs, only three received clean audit reports. All other SETAs had matters of emphasis. One SETA received a disclaimer and two other SETAs received qualified audit reports.

The Auditor-General cited the following areas as critical for the improvement of SETA performance:

- compliance with the PFMA;
- correct reporting of assets in the asset register;
- compliance with the principles of good corporate governance;
- Implementation of policies such as supply chain management policy and human resources and financial policies; and
- Correct reporting of performance against NSDS targets (South Africa 2007).

The article will investigate the validity of aspects of the above reasons from the Auditor-General and attempts to answer the question: *What are the actual reasons for the poor audit results for some SETAs?* The research was undertaken by the first author for purposes of compliance with the requirements of doctoral studies at the University of Johannesburg under the supervision of the second author (Barclay 2012). The contents of this article comprise edited extracts from Barclay (2012).

PRACTICAL AND THEORETICAL SIGNIFICANCE OF CORPORATE GOVERNANCE

Corporate governance is a system but is also a controlled measure to prevent various irregularities. These irregularities are directly affected by the nature of the organisation such as the structure of the organisation, its goals and objectives, competitors and concerns. Corporate governance can be defined as the manner in which power is exercised in an organisation in a way that is efficient, responsible, accountable and transparent (Richter 2001:29).

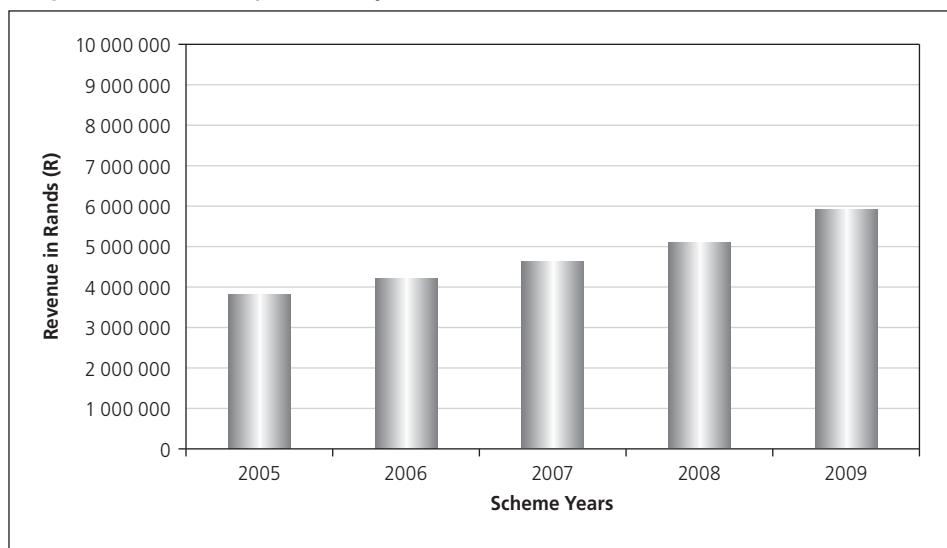


No system of corporate governance can be regarded as universally dominant. Accordingly satisfactory solutions to the current problem of corporate governance cannot be created from abstract formalisms or idealised models of the corporation, but should be designed to suit peculiar market structures, legal systems, traditions and cultural and societal values. Consequently corporate governance may vary from country to country and even from organisation to organisation. Sir Adrian Cadbury states that corporate governance is the holding of "...a balance between economic and social goals and between individual and communal goals. The aim is to align....the interests of individuals, corporations and society" (Kotsis 2005:16).

The contemporary call for the improvement of corporate governance is not applicable to South Africa only, but is a worldwide phenomenon, as evidenced by current literature. Corporate governance is frequently influenced by the legal, political and institutional framework. These frameworks support the promotion of good governance on paper, but inherent procedural weaknesses, resource constraints and the role of political principals in the operations of the institution remain a fundamental stumbling block to good corporate governance (Hussein 2005:3).

SETAs were established with good intentions, and the amount of money from skills development levies flowing to SETAs was hugely understated. Graph 1 depicts skills levy income of SETAs for the last five years. An annual average growth of 13% in the skills development levy was shown in the 2008/09 financial year. The value invested in skills development over the last four years amounts to R19,5 billion (South Africa 2009). One of the fundamental successes of corporate governance is that the different definitions of the concept mean that it is a process by which an organisation is managed, but is also a process by which the welfare of stakeholders, staff, and suppliers must be taken into account. This implies that the evolution of corporate governance went beyond merely the creation of value for the shareholder (Vives 2000:1-10).

Graph 1 Skills development levy income of SETAs from 2005–2009



Source: South Africa 2009

The first detailed report on corporate governance was set out in the Cadbury Code of Best Practice in 1992, which defines the manner in which companies are directed and controlled. A combined code on corporate governance was compiled following the Higgs report and the review by the Department of Trade and Industry in 2003. A combined code of good practice was established and is now under the guidance of the Financial Reporting Council (FRC). Listed companies must annually disclose their compliance with this code and the World Bank has also made compliance with good corporate governance a criterion for approval of loans (Dunne & Morris 2008:175 & 176).

The combined code of good practice was as a result of poor governance in the UK corporate governance system, where pension fund money was used fraudulently to finance illegal schemes and support various schemes to increase the share prices of listed companies. The Cadbury report placed emphasis on the role and composition of the board, appointment of non-executive directors, disclosure of remuneration, renewal of their contracts and the manner in which accounts should be audited and reported on (McCahery et al. 2002:606–607).

The World Bank introduced a number of mechanisms for ensuring good governance, not because they operate globally but because of the stereotype of poverty, tyranny and conflict that goes hand in hand throughout the world and throughout history and not Africa alone (World Bank 2007). In the South African context, good progress has been made with democratic government such as improving the integrity of legal systems, upgrading of physical infrastructure and proactively dealing with problems of poor governance and corruption (De Klerk 2011:44).

A study conducted on the leadership competencies required of SETA management indicated that corporate governance is fundamental to an efficient and well-run institution. The competency to create structures, implement control measures, solve stakeholder-related problems and accurately disburse grants from skills levies was regarded as a fundamental cornerstone of good governance (Prinsloo 2004:22).

RESEARCH DESIGN AND METHODS

The research on this topic took the form of a qualitative assessment of corporate governance in SETAs. SETA documentation such as files relating to corporate governance, minutes of meetings, audit reports, reports of the Auditor-General, media reports and information on the website were accessed, analysed and assessed against this background. This data was then supplemented with a set of purposive interviews with selected participants from SETAs at the end of the data collection process. The target audience for the interviews was those members of management that are centrally involved in the implementation of corporate governance in those organisations. A questionnaire focusing on the most important compliance criteria was compiled. The questionnaire was circulated to board members, CEOs, CFOs, general managers' corporate governance and chairpersons of audit and finance committees. Of the 80 questionnaires circulated to SETA board members and staff, 35 (43,8%) were returned, while three (25%) of the twelve questionnaires circulated to Auditor-General staff and chairpersons of SETA audit committees were returned (Barclay 2012:198). Although the last-mentioned number of respondents were low, their responses



were supplementary to the main documentary sources of information assessed, as was the case with the other respondents too.

SETAs differ vastly in shape and size and the authors found it appropriate to measure corporate governance in the following combination of SETAs:

- The top six biggest SETAs in terms of size and income
 - MerSETA (SETA for the Manufacturing, Engineering and related services).
 - Services SETA (SETA for the Services industry).
 - Mining Qualifications Authority (SETA for the Mining and Minerals Sector).
 - W & R SETA (SETA for the Wholesale and Retail industry).
 - Bank SETA (SETA for the Banking industry).
 - ISETT (SETA for the Information management and technology sectors).
- The three medium SETAs in terms of size and income
 - FASSET (SETA for the financial industry).
 - INSETA (SETA for the Insurance sector).
 - HW SETA (SETA for the health and welfare sector).
- The three smallest SETAs in terms of size and income
 - ESETA (SETA for the energy sector).
 - CTFL SETA (SETA for the clothing, textiles and leather).
 - FIETA (SETA for the forestry industry).

The major source of our data is the quite exemplary information on corporate governance and financial management controls contained in SETA annual reports. This is supported by audited annual financial statements and a report from the Auditor-General. The research focused on the current governance structures, systems and processes within the identified twelve SETAs during the three financial years from 1 April 2006 until 31 March 2009.

LEGISLATIVE FRAMEWORK UNDERPINNING CORPORATE GOVERNANCE

The primary function of a SETA is “to provide an institutional framework to implement national, sector and workplace strategies to improve the skills of the South African workforce” (South Africa 1998). In line with the nature of its institutional framework, a SETA must at least comply with the following pieces of legislation, as well as any other legislation that enforces and promotes good governance to ensure a clean audit report:

- The *Corruption Act*, 94 of 1992.
- The *Constitution of the Republic of South Africa*, 1996.
- *Skills Development Act*, (SDA) 97 of 1998.
- *Skills Development Levies Act*, (SDLA) 9 of 1999.
- The *Promotion of Access to Information Act*, 2 of 2000.
- The *Promotion of Administrative Justice Act*, 3 of 2000.
- The *Protected Disclosures Act*, 26 of 2000.
- The King II Report on Corporate Governance, 2002.
- The King III report on Corporate Governance, 2009.

- The Protocol on Corporate Governance in the Public Sector, 2002 (South Africa 2007).

ROLE OF THE BOARD

Board members individually (and collectively as the accounting authority) have both fiduciary duties (section 50 of the *Public Finance Management Act*, 1 of 1999 (PFMA) and general responsibilities (section 51 of the PFMA). A brief description of a director's duties is outlined hereunder:

- to have regard for the interests of shareholders, employees, suppliers, the environment and the community;
- to act in good faith and to promote the success of the company for the benefit of its members;
- to know the Constitution of the entity and to act within its powers;
- to show care, skill and diligence;
- not allow a conflict to arise between their interest in them and their duty to the company;
- not receive benefits of third parties by reason of being a director; and
- to declare any financial and/or other interests directly and indirectly (Loose *et al.* 2008:235).

The board of a SETA is the accounting authority and "must ensure that the SETA has and maintains an effective, efficient and transparent system of financial and risk management and internal control" (South Africa 1999). The board must also ensure the implementation of "a system of internal audit under the control and direction of an audit committee and an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective" (South Africa 1999). The accounting authority must collect all revenue due, prevent irregular expenditure, fruitless and wasteful expenditure, manage available working capital efficiently and economically and "comply with any tax, levy, duty, pension and audit commitments as required by legislation. The accounting authority must take effective and appropriate disciplinary steps against any employee of the public entity who contravenes or fails to comply with a provision of this act" (South Africa 1999).

ROLE OF THE AUDIT COMMITTEE

In terms of sections 51(1) (a)(ii) and 76(4)(d) of the PFMA, the responsibilities of the audit committee are in brief to review the following:

- The effectiveness of the internal control systems.
- The effectiveness of internal audit.
- The risk areas of the entity's operations to be covered in the scope of internal and external audits.
- The adequacy, reliability and accuracy of financial information provided to management and other users of such information.



- Any accounting and auditing concerns identified as a result of internal and external audits.
- The entity's compliance with legal and regulatory provisions.
- The activities of internal audit, its annual work programme, coordination with the external auditors, the reports of significant investigations and the responses of management to specific recommendations.

The audit committee is seen as providing an excellent oversight function on behalf of the board. The audit committee can be regarded as a committee that fulfils some of the board's responsibilities such as the appointment of the internal auditors, overseeing the audit process and the integrity of financial reporting. The audit committee has been advocated by many as a deterrent to false financial reporting. To the board it has the advantages of ensuring independence and board efficiency. A sound system of internal audit should place emphasis on areas of the business where there is the greatest risk of fraud, and to mitigate the impact of fraud and misappropriation of public funds and resources. There should be approved policies and procedures in place clearly reflecting the segregation of duties and delegation of authority between the board, CEO and management (Moizer 2005:362–364).

The role of the accounting officer is to support and create an enabling environment for the abovementioned structures to discharge their duties effectively. The accounting officer must ensure sound management of the department/entity, its financial and human resources and ensure that the budgeting and expenditure is in accordance with the objectives and vote of the department/entity. The accounting officer must act consistently with the provisions of sections 36–42 of the PFMA and must take into account all relevant financial provisions affecting his/her responsibilities including that of the entity and must bring same to the attention of the accounting authority and executive authority (South Africa 1999).

WHY ARE SETAS SUBJECTED TO SUCH INTENSE SCRUTINY?

SETAs are among the most criticised organs of state since the first democratic elections in 1994, says Nicola Mawson (Mawson 2010) in her article "The SETA Conundrum", which appeared in *African Leader*. This is primarily due to the history of poor corporate governance in some SETAs. This statement clearly reflects the state of flux of some SETAs, particularly taking into consideration their poor financial results on a year to year basis. A SETA survey report published in 2003 indicated that SETA leaders are unsuitable in their positions: "They are poorly qualified to do their job" (*Sunday Times* 2003). This statement should not be underestimated, as SETAs play a pivotal role in the skilling of the South African workforce according to the spirit of the *Skills Development Act*, 1998. Following the media statement, four SETAs were placed under administration and given 14 days to respond on what measures will be taken to improve governance at all levels. The SETAs placed under administration were as follows:

- MAPPPSETA (Media and Publishing)
- CETA (Construction)

- PSETA (Public Service)
- ESETA (Energy) (*Business Day* 23 August 2010).

The ESETA is one of the profiled SETAs in this article and it is hardly surprising that it was placed under administration after repeated poor audits from the Auditor-General in all the financial years covered in this thesis. Administration means that the SETA has had a continual trend of poor performance against the targets set in the national skills development strategy, a breakdown of internal financial controls, and non-compliance with corporate governance principles, which include deviation from the supply chain management policies and prescripts specifically relating to tenders.

The Construction SETA was the hardest hit, with R92 million in irregular expenditure in 2008 and R7,6 million in 2009 (*Business Day* 2009). SETAs have in many instances been criticised in a number of media reports for poor performance. Part of the problem could be as a result of lack of guidance by the executive authority or the board (*Beeld* 2009).

Poor corporate governance and the lack of control measures resulted in a loss of R235 million by the Transport SETA in 2007. The Transport SETA invested the R235 million in the Fidentia investment scheme without approval from the National Treasury.

ASSESSMENT OF DATA IN ANNUAL REPORTS

The annual reports of the 12 identified SETAs were assessed to determine their compliance with the principles of good and accountable financial management, which is an integral part of good governance.

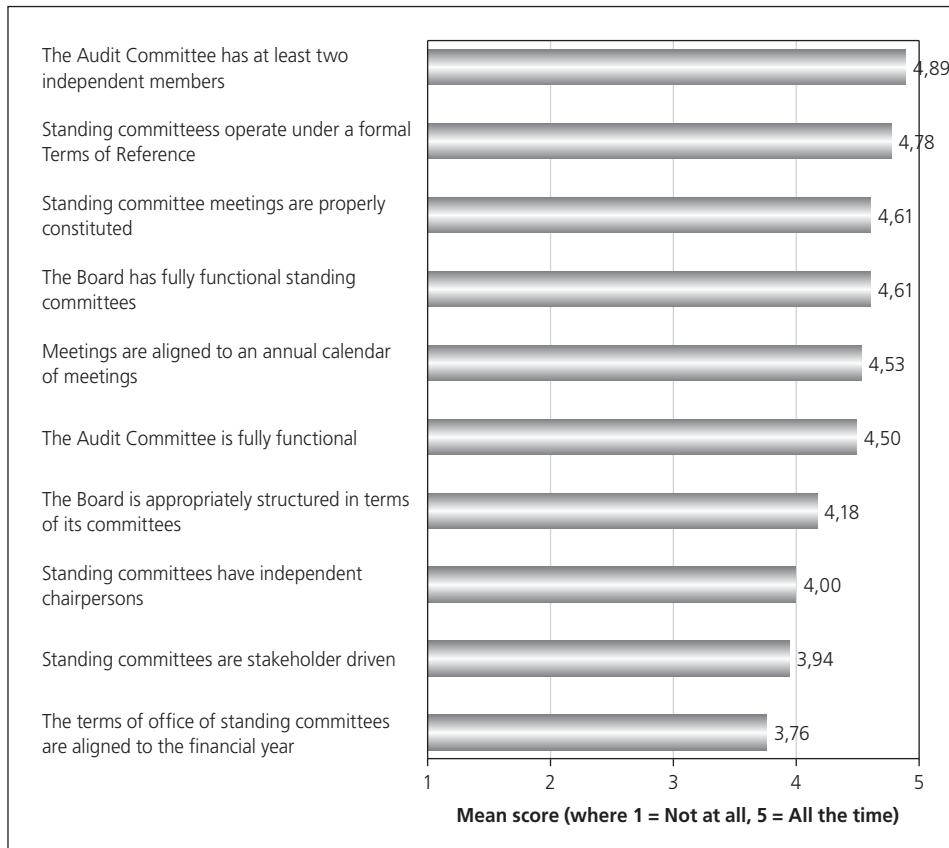
Governance structures in SETAs

SETAs have gone way beyond compliance when it comes to the establishment of governance structures. The minimum number of governance structures in terms of the King report on corporate governance are the board, audit committee, remuneration committee and nominations committee. In terms of compliance, all SETAs meet the minimum requirements, although they do not have nominations committees. It was also found that SETAs do have processes in place to deal with the nomination of board and committee members to its governance structures despite the non existence of a nominations committee. However, there are other standing committees involved in the operations of the SETA. These committees are dominated by stakeholders. Each SETA has a minimum of five and a maximum of seven committees in addition to the board, audit committee and remuneration committee. Sub-committees that are established from time to time are excluded from these structures. The committees of the board are technical committees and do not have decision making authority.

Board committees should be kept to a minimum to reduce redundancies and ensure that directors' time is well spent. Typically a board should have three standing committees – namely, a governance or nominating committee, an audit committee and a remuneration committee. Depending on the circumstances of the organisation, a risk committee may be added and in cases where the organisation is largely driven by



Graph 2 Standing Committees



Source: Self-generated from questionnaires analyzed (Barclay 2012:212)

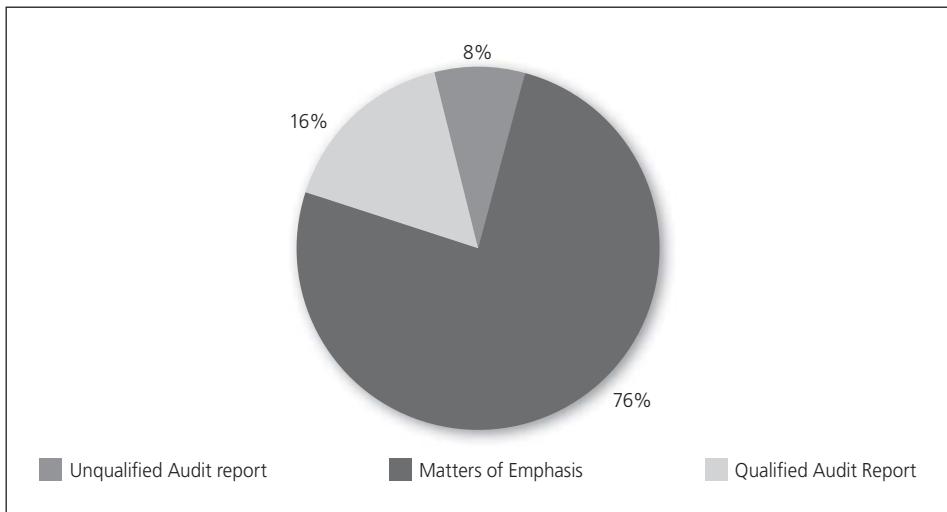
operational statistics, which is the case with SETAs, an operational committee would be useful (Charan 2005:157).

Fishel (2008:252) argues that in addition to the above committees proposed by Charan, a finance committee to oversee the organisation's finances is critical to the board. The finance committee will also have an investment function, but if the organisation is largely driven by investment in the local and/or foreign markets, the investment and finance function may be separated.

Those SETAs with a history of poor corporate governance acknowledged their shortcomings relative to well-performing SETAs. This history of poor corporate governance in some SETAs prompted the Minister of Higher Education and Training to take decisive action to improve corporate governance in SETAs. In a concerted effort to improve the governance in SETAs, the Minister announced a reduction in the size of the SETA board to a maximum number of 15 members that would include two ministerial representatives with full voting rights and an independent chairperson (Connellan 2011).

From Graph 2 one can conclude that SETAs do have the structures in place to support the promotion and implementation of good corporate governance. Whether these structures are fully capacitated to fulfil their roles, is a matter of debate.

Graph 3 Assessment of financial results of SETAs for the 2006/07 financial year



Source: South Africa 2006a,b,c,d,e,f,g,h,i,j,k,l

Assessment of financial results of SETAs for the 2006/07 financial year

Based on Graph 3, only one of the SETAs, the Forestry SETA (FIETA), received a clean bill of health. Although 76% of SETAs profiled received good audit reports, the Auditor-General identified matters in the auditing of financial statements that were material and needed to be mentioned in the audit report. Only two SETAs (16%) received qualified audit reports in this financial year. These SETAs are the Health and Welfare SETA and the Energy SETA.

Assessment of financial results of SETAs for the 2007/08 financial year

As is clear from Graph 4, a significant improvement in the financial performance of SETAs was noted in the 2007/08 financial year. During the period under review, three SETAs received unqualified audit reports, whereas there was only one unqualified audit report in the previous financial year. The three SETAs, MerSETA, Services SETA, FIETA received unqualified audit reports.

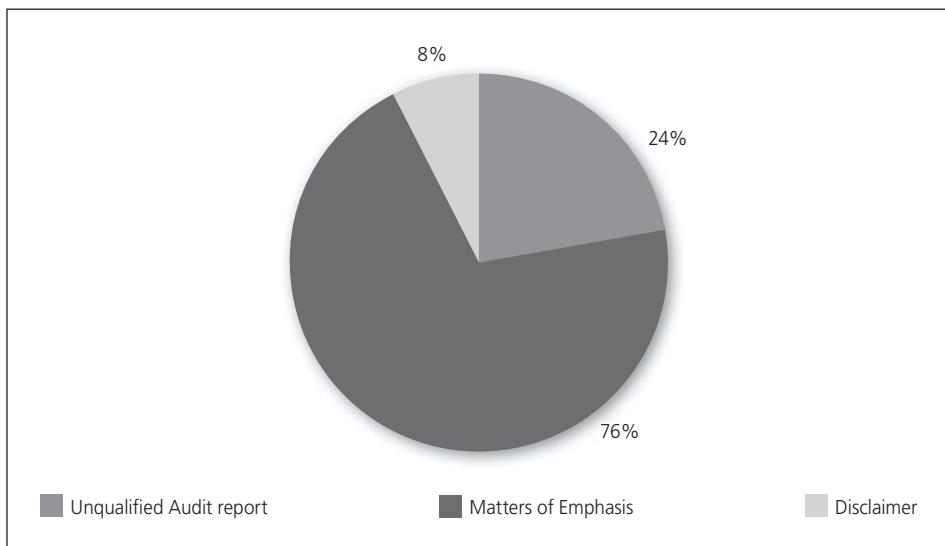
One SETA, namely the Energy SETA, received a disclaimer, whereas it received a qualified audit report in the previous financial year. While improvement can be noted in other SETAs, the Energy SETA is the only SETA whose performance deteriorated in the 2007/08 financial year.

Assessment of financial results of SETAs for the 2008/09 financial year

The year 2008/09 saw a significant number of SETAs receiving unqualified audit reports from the Auditor-General (from 24% in the previous financial year to 76% in the year in

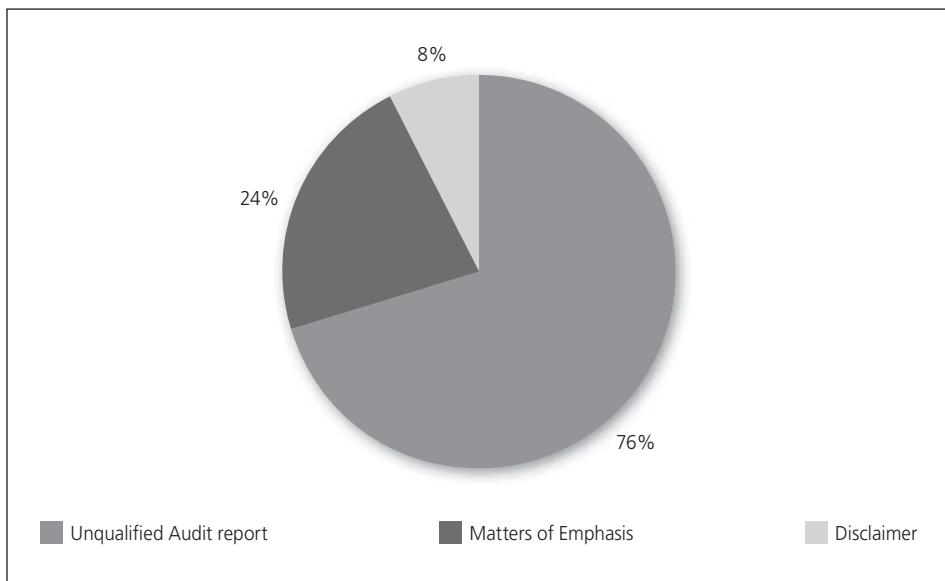


Graph 4 Assessment of financial results of SETAs for the 2007/08 financial year



Source: South Africa 2007a,b,c,d,e,f,g,h,i,j,k,l

Graph 5 Assessment of financial results of SETAs for the 2008/09 financial year



Source: South Africa 2008a,b,c,d,e,f,g,h,i,j,k,l

question), as indicated in Graph 5. The ESETA continued with its poor financial results by receiving a disclaimer in this financial year. The matters of emphasis decreased from 76% in the previous year to 24% in this year. It remains to be seen whether the improvement in governance in SETAs can be sustained. The increased staff movement by SETA staff as a result of the uncertainty of the SETA landscape in this financial year may have affected current financial performance and future operations.

ANNUAL FINANCIAL STATEMENTS OF SETAS

The Auditor-General cited a number of reasons for poor audit reports. This article highlights some of those comments as far as it has an impact on corporate governance matters and those relevant to the objectives of the article. The audit opinion of the Auditor-General is informed by a consistent trend of one or more of the following incidents:

- difficulties experienced during the audit with specific reference to available information and documentation;
- unavailability of supporting financial and non-financial documentation;
- accurate and reliable financial and accounting records;
- unavailability of senior staff supporting the audit team; and
- duplication of audits due to limited or no reliance being placed on the internal audit team audit reports (Interview with R Grobler).

The major areas according to the Auditor-General for the poor audit results for SETAs are based on a combination of the following reasons:

- The SETA does not have a legislative mandate to source documentation to support revenue.
- Material adjustments were made to the annual financial statements submitted on 31 May 2007.
- Wasteful, fruitless and irregular expenditure was incurred.
- Management lacked responsibility to establish and maintain sound internal controls and reconciliations on an ongoing basis.
- Prior year errors were incorrectly recorded.
- Depreciation was not correctly recorded in terms of Internal Audit Standard (IAS) 16.
- The SETA does not have a legislative mandate to source documentation to support revenue.
- Non-compliance with supply chain management policy.

ASSESSMENT OF DATA FROM MEETING DOCUMENTATION

To ensure a representative assessment of selected SETAs in the sample, the criteria for the assessment of meeting documentation were as follows:

- The meeting documentation of two of the largest SETAs were assessed, namely the MSA and Services SETA.
- The meeting documentation of one of the medium SETAs, namely, the Bank SETA, was assessed.
- The meeting documentation of one of the smallest SETAs, namely, the FIETA, was assessed.

In cases where it was difficult to obtain meeting documentation, telephonic interviews with selected participants were undertaken. The most similarities in the assessment of meeting documentation were as follows:

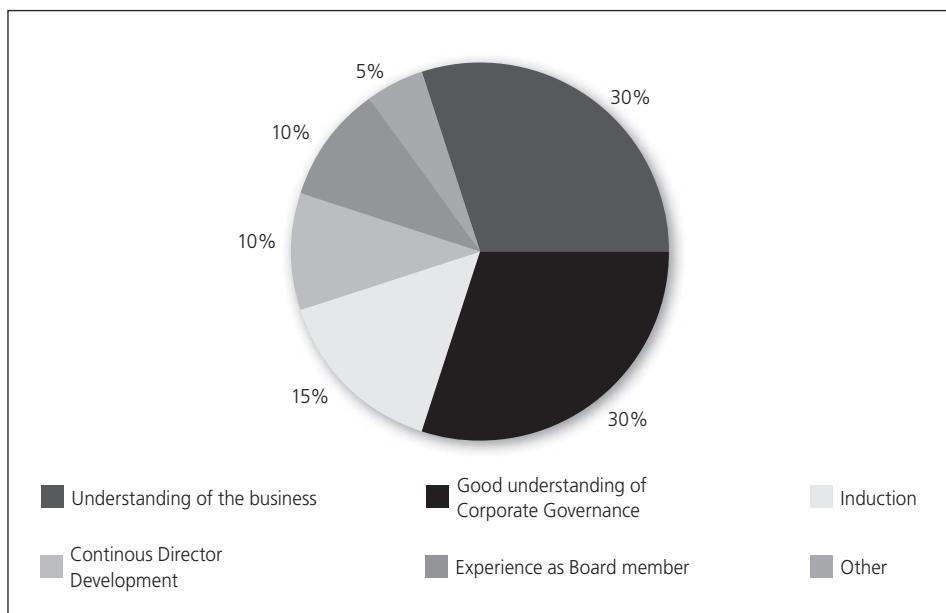


- An annual calendar of meetings governs the details of each committee meeting for a particular financial year.
- The board has a charter setting out its responsibilities, fiduciary duties, code of conduct and the role of board committees.
- Chairpersons do not report to board meetings. If they do report, the reporting is verbal and inconsistent.
- Most SETAs have externally contracted secretariat services for their board meetings.
- The constitution of each SETA is gazetted by the former executive authority, the Minister of Labour. The constitution serves as a basis for the preparation, conduct and procedures at board meetings.
- Each committee operates in accordance with formal terms of reference that govern its composition and responsibilities.
- There is a uniform framework for each meeting covering the most important aspects to be dealt with at each meeting.

While most SETAs have some kind of compliance framework in place, as evidenced in this article, it is still a long way away from full compliance. Some of the most important differences are highlighted below:

- Specific legislation such as the *Promotion of Access to Information Act, 2000*, which should guide employees on the disclosure of information to other parties and the public, is not implemented to its full extent by all SETAs.
- SETAs do have policies to deal with fraud and corruption. The lack of a communications policy that would indicate how SETAs are good corporate citizens and that would inform the stakeholders and general public of their initiatives to fight

Graph 6 Critical success factors identified by interviewees



Source: Self-generated from questionnaires analyzed (Barclay 2012:241)

fraud and corruption is a matter of great concern. Indeed, the lack of such an initiative could encourage theft, fraud and corruption in SETAs.

- Bad governance in SETAs has created a crisis in confidence on the part of government and the media news. SETAs have failed to address the overall or aggregate perceptions of stakeholders, public and media on the formation of corporate reputations. SETAs must realise the impact stakeholder perceptions have on their reputations and even when they are not considered, warranted or legitimate they should be dealt with and not ignored, as explained in the King III Report.
- The governance of risk has been elevated to the board through increased emphasis in King III. The board is ultimately accountable for the process of risk management, but in the assessment of SETA documentation limited or in some cases no information that deals with risk is passed on to the board.
- The area of disclosure and usefulness of corporate governance reporting needs attention in all SETAs. Not all SETAs make disclosures regarding their governance arrangements in their annual reports. In cases where SETAs do make their disclosures, it is inadequate.

ASSESSMENT OF DATA FROM INTERVIEWS

The interviews yielded a number of significant explanations for poor audit results. The interviews were conducted with SETA CEOs, CFOs, general managers of corporate governance and chairpersons of boards and audit committees. These participants were selected because they were active in poorly performing and well-performing SETAs respectively, and would therefore give insight into the reasons for this range of performance.

The selected respondents are centrally involved in the implementation of corporate governance in the SETAs profiled. The findings below apply to the majority of interviewees, unless explicitly stated otherwise. All interviewees identified the following critical success factors depicted in Graph 6 for a SETA to be successful with full participation by all stakeholders.

The critical success factors are consistent with best practice corporate governance practices.

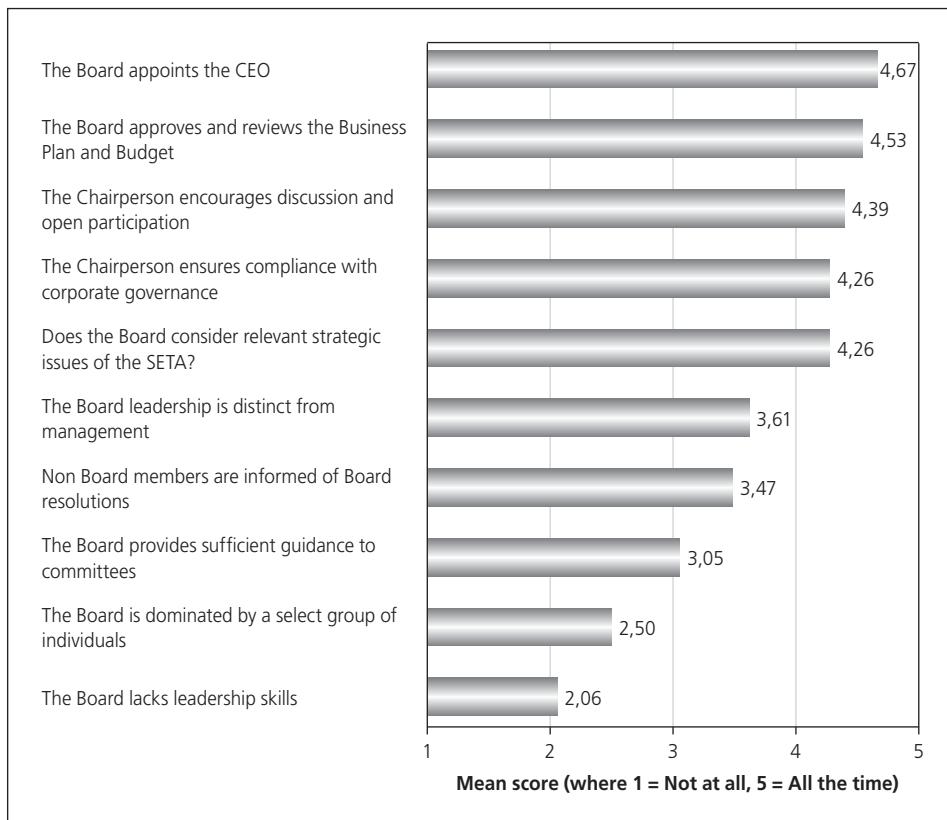
ASSESSMENT OF DATA FROM QUESTIONNAIRES

The critical success factors in graph 6 were taken into consideration when the questionnaires were assessed and analysed, and the results of the questionnaires have been found to be reliable. The questions compiled by the researcher have both positive and negative phrases as a method to determine how honest the respondent is when responding to the questionnaire.

Graph 7 shows that, consistently among SETAs, the board is involved in the appointment of the CEO, which received the highest rating. It is encouraging that SETA respondents are of the opinion that boards have the appropriate leadership skills, because poor leadership by the board could be attributed to cases where there is a continual breach of corporate governance and breakdown of internal controls. The responses indicate a lack of leadership



Graph 7 Board leadership and teamwork



Source: Self-generated from questionnaires analyzed (Barclay 2012:202)

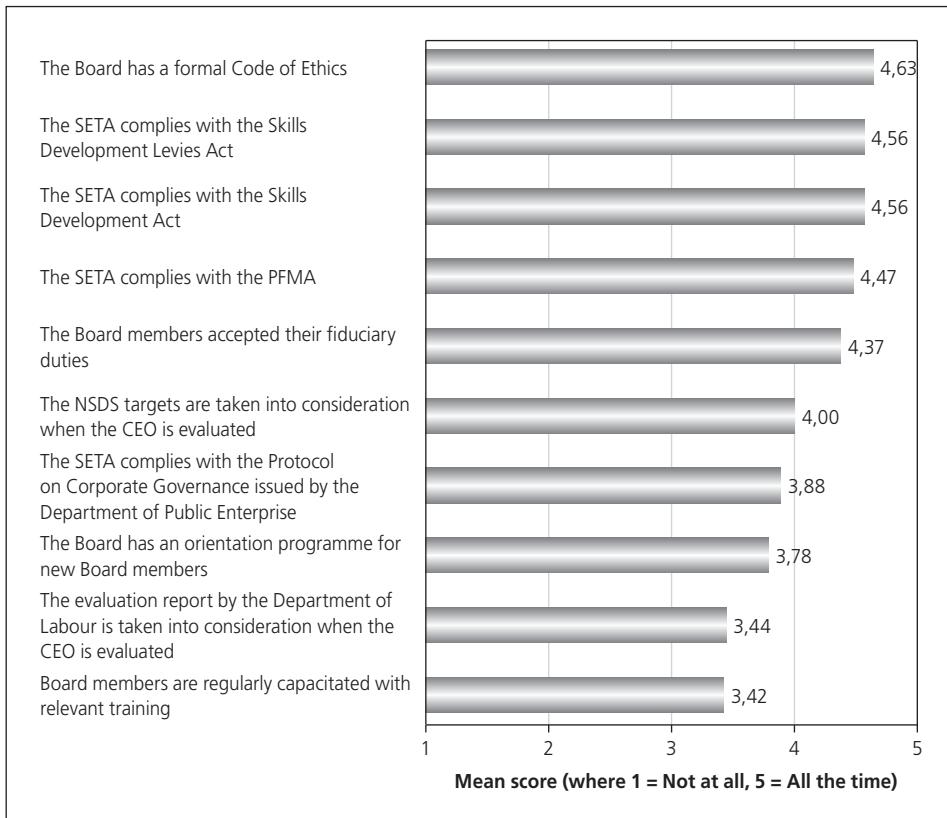
skills and other elements attributed to SETAs with bad corporate governance records. SETAs are organisations whose focus on skills is demanding in a competitive environment, and bad leadership is therefore often a death sentence for the institution. Scientists speculate that companies that are unable to respond to changing circumstances and adjust their capabilities over the long term fail because of bad leadership. The depth and quality of leadership lies in the ability of the company to obtain evolutionary success (Bower 2007:7).

The leadership role could also be a hands-on or a hands-off approach depending on the unique circumstances of the organisation. A hands-off approach is desirable if the CEO leads the organisation to achieve its organisational goals and legal obligations, while a hands-on approach is required if the organisation continually performs poorly (Fishel 2008:12). Strong leadership, whether hands-on or hands-off, makes a good company better just as surely as weak leadership lowers its prospects of success and over time ruins it (Charan 2005:7).

The involvement of the chairperson in ensuring compliance with corporate governance is rated very highly, but the implementation of such compliance and the corrective action taken in cases where there is a breach of compliance is often lacking. A successful board is based on two essential ingredients, namely:

- a chairperson who leads the board in harmony and capably fulfils a board leadership role;

Graph 8 Compliance and corporate governance



Source: Self-generated from questionnaires analyzed (Barclay 2012:204)

- a CEO who wants the board to perform and see the board's role as complementary to that of the CEO (Fishel 2008:54).

The responses indicate that the board is responsible for the approval of the business plan, policy, strategy and budgets of SETAs, which is well in line with good corporate governance principles.

Graph 8 shows that the SETAs rated compliance with legislation very highly. Compliance with the *Public Finance Management Act*, 1999 (PFMA) is rated very highly at 4,47. The PFMA also requires SETAs to comply with a procurement management system that is fair, equitable, transparent, competitive and cost-effective based on the principles of value for money (South Africa 1999:78 (4) (c) b).

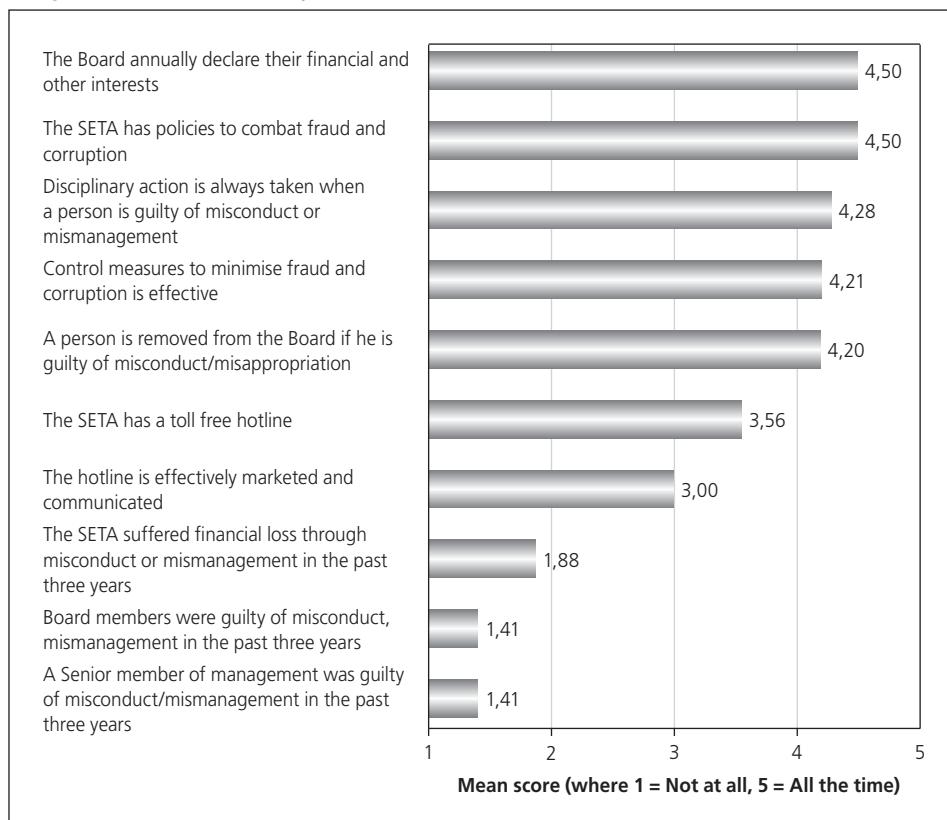
This is in complete contradiction with the annual reports themselves. The significant findings and reasons for qualified audit reports are as a result of non-compliance with legislation such as the supply chain management policy, which includes the incurring of wasteful and fruitless expenditure. In a move to strengthen and assert authority over SETAs, Higher Education and Training Minister, Dr Blade Nzimande announced that the legislative framework governing SETAs may be amended if this will improve the corporate governance and performance of SETAs (*Business Day*, 08 December 2010).



It is not surprising that the capacity building of boards is rated the lowest at 3,42 and the orientation of board members the third lowest at 3,78. Ongoing capacity building and orientation of new board members on compliance criteria is one way of reducing poor audit reports. What is encouraging is that SETA boards have a code of ethics by which all members must abide, and they accept their fiduciary duties in terms of the PFMA. It is important for the image of an organisation that it is perceived to practise good corporate governance. Public contributions to organisations perceived to have poor corporate governance were substantially reduced. The perception is also that good corporate governance protects an organisation from accusations of corruption and fraudulent activities and therefore also protects it against civil claims. The advantages of good corporate governance practices are evident over time, in contrast to the costs of such practices that have to be addressed in the short term. Boards that focus on short-term results may only see the costs associated with corporate governance and not the benefits (Lipton 2006:5).

Graph 9 tried to establish whether SETAs have processes in place to combat fraud and corruption. It is clear that this is the case. What is concerning, though, is the fact that the ethics of board members is questionable, as some members have been removed from office or SETAs placed under administration. Most SETAs rated the effectiveness of their fraud and

Graph 9 Fraud and corruption



Source: Self-generated from questionnaires analyzed (Barclay 2012:208)

corruption control measures at 4,21, which is a high rating. This amounts to a situation of conflicting subjective perception and objective reality.

This assessment might not be a true reflection of precisely what is happening in SETAs with regard to fraud and corruption, as perceptions of, or actual fraud and corruption, attract unwanted media attention. In line with good governance principles, it is assumed that board members declare their direct and indirect interests at least annually. However, when their interests whether direct or indirect, change, at what point is the SETA informed of such change and when is the change recorded? Interviews with selected respondents indicated that SETAs have processes in place to ensure declaration of interests as and when they occur, and most SETAs at least have a toll-free hotline as a mechanism to combat fraud and corruption. A whistleblower policy is imperative, as 40% of fraud is detected by tip-offs, according to Lipton (2006:21). In order to achieve optimal results, good corporate governance practices necessitate a combination of diverse strategies including the declaration of possible conflicts of interests through a code of ethics. Corporate governance "has grown in importance: mismanagement has come into focus and the surrounding issues are addressed more prominently in the news" (Lessing 2009:1).

The South African Corporate Ethics Indicator (SACEI), commissioned by Ethics SA, reported in 2009 that from a total number of 3 667 staff members across 20 companies interviewed, 60% of respondents indicated that their companies do have an ethics policy in place. This is on par with the accepted standard in social scientific research. The average score based on the ethics statements answered is 72%. The unanswered question is how many of these companies have measured the impact and effectiveness of these policies (Ethics Institute of SA 2009:14).

Boards should become accountable for their actions and help ensure that directors are aware of their responsibilities. To this end, a director's code of conduct can be developed that explicitly deals with directors' conduct. In the annual evaluation of the performance of the board, directors may be appraised on their ability, awareness and adherence to the director's code of conduct (Fishel 2008:117). From the high rating in graph 1.9, one can conclude that control measures to combat fraud and corruption are effective.

CONCLUSION AND RECOMMENDATIONS

This article summarises the conclusions by the authors about the governance performance of a number of SETAs in South Africa. The recommendations it contains take the current knowledge on the topic further and will hopefully have an impact on corporate governance in SETAs and public entities in future. While one should not overlook the significant strides that have been made to improve corporate governance, it must be acknowledged that sound evidence exists of a breakdown of corporate governance and internal controls in some SETAs. The results of this study are encouraging from a continual improvement perspective, but at the same time it is discouraging to note that there are still a number of SETAs that produce poor results on a year to year basis without proper action been taken to hold management accountable.

The authors recommend the establishment of a corporate governance forum as a resource to assist poor performing SETAs. A formal ownership policy is also recommended where



all SETAs and public entities can report through one executive authority. Poor governance in SETAs is largely a result of weak administrative capacity and the shortage of funds in smaller SETAs. Although the lack of properly trained, qualified and experienced staff could not be generalised to all SETAs it is an inherent weakness that hampers the promotion of good governance. To sum up, the promotion of effective governance in SETAs is complicated by the broader political, social and economic environment and more specifically the interference and predetermined expectations of stakeholders.

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