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Reviewing the **Role of Directors** within Corporate Governance

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The impacts, fall-out and continuing consequences of the Covid-19 pandemic have given reviews of board performance an added urgency. For many companies they are now a necessity rather than a periodic governance checklist requirement. Early struggles to cope with an unfolding crisis have resulted in some humility and the need for honesty and realism, widening the scope of reviews to cover corporate governance arrangements and practice, and questioning past assumptions about the role of directors and the contribution of boards.

In the current situation, it is particularly important that governance arrangements, board performance and the contributions of directors are reviewed together. Corporate governance and strategic direction are what directors and boards do and should provide. Some directors may believe they have performed as well as might be expected in the circumstances. Others might feel they could have done more or reacted differently. It may also be an opportune moment to consider how the role that independent directors play could be enhanced.

Findings of pre-pandemic reviews of board performance and/or governance arrangements might already be out of date in the light of recent experience. Many directors needed varying amounts of time to adjust to new realities and their experiences have resulted in differing combinations of self-doubt and pride. Regardless of what was or was not done, contemporary reviews should address the evolving requirements for governance and leadership in the face of new issues, while windows of opportunity to address older challenges still exist.

Recognising the Impacts of Covid-19

In the pre-pandemic era, despite a need for urgent action to deal with climate change, global warming, over consumption of natural capital and environmental destruction, many directors settled into a routine of attending periodic board meetings. For some of them, being a director was an intermittent activity. Whatever preparation they undertook ahead of board meetings and their presence at them accounted for most of the time they devoted to directorial duties.

Many directors have found that dealing with Covid-19 and its impacts and implications have involved additional activities and further commitments of time. More directors are also finding that the 'doing' aspects of what governance and the provision of strategic direction involves, whether establishing, setting, ensuring, delegating or exercising responsibility often now needs greater thought before, during, after and between board meetings.

The directorial role has often been a demanding one for those who want to make a difference rather than just go with the flow and nod business through. More than ever, it now requires courage, curiosity and integrity. It needs clear thinking and plain speaking. What has been taken for granted in the past may now need to be questioned. Inadequacies and vulnerabilities have been revealed by the Covid-19 pandemic. Many working practices have changed. Certain assets have now become liabilities. Former strengths may now be weaknesses.

Accepting Directorial Challenges

After learning about the legal duties and responsibilities of company directors, some people step back from becoming a director and seek advisory and/or consulting roles instead. Others rise to the challenge. They are willing to be accountable. They accept that difficult issues and dilemmas invariably end up in the boardroom. They recognise that when insufficient value and cash is being generated to meet the expectations of all stakeholders they may have to make choices and balance and/or trade-off contending interests.

If behaviours, expectations and interventions have changed, previous norms may not apply. There may be an over-riding requirement to do things differently in addition to the innovation needed to cope with environmental degradation and global warming. The criteria to be used for board and governance reviews should reflect contemporary requirements. They should consider new options, emerging possibilities, where balances need to be struck and where the emphasis ought to be placed in the current situation.

Hitherto a board might have had a particular position when striking a balance. For example, in relation to balancing risk and return some directors are risk averse, while others might be gung ho. Risk appetites and views of what is acceptable may have changed as a consequence of Covid-19. Actions and responses and inaction, drift and delay all involve risks. Directors need to ensure that they and an executive team take responsible risks, are realistic in relation to returns and balance risk and return at each stage of transition and transformation journeys.

Embracing Directors' Dilemmas

In relation to many aspects of the directorial role, board members need to reconcile and address all aspects of what might seem to be contending and/or conflicting requirements. For example, they need to be open to ideas, options and possibilities and embrace diversity while at the same time striving for sufficient consensus to make progress and ensuring a focus upon what is most important and/or urgent for a company, its stakeholders and the environment.

Involvement in and identification with the affairs of a company should not compromise detachment and objectivity. Directors need to judge when, where and how to step in and when to stand back. In crisis situations, directors should resist pressures to just deal with the present, as both short-term and long-term considerations may need to be addressed. Failure to consider the implications of panic responses, hurried discussions and hasty decisions can have lasting consequences.

Directors should challenge while also providing support. Newly appointed independent directors are sometimes inhibited from challenging confident and experienced executive colleagues who appear to have considerable support, especially while they are settling in to their directorial roles. How one challenges, for example asking whether a particular option has been considered rather than appearing confrontational, might avoid defensive reactions.

Striking the Right Balance

Board members should be proactive and willing to take the initiative, while also listening, observing and reacting to internal and external developments. They may have to be both entrepreneurial and prudent. They may need to build a business, innovate or transition to a different business model, while also ensuring compliance and maintaining control. Exactly where a balance should be struck can depend upon the situation and context.

Directors should promote the long-term interests of a company while acting responsibly towards stakeholders and the environment. They should exercise independent judgement and avoid or declare conflicts of interest. When in the boardroom, directors should act appropriately in relation to different roles. For example, an executive director could have both directorial and management responsibilities, while also being a shareholder.

Issues may end up in the boardroom because they are novel, inter-disciplinary and/or not adequately covered by existing policies and they cannot be handled by a particular executive group. Obtaining independent, objective, informed, relevant and actionable advice is rarely easy. Directors should avoid being bamboozled by jargon and spurious expertise and/or beguiled by the suave and the smooth. No-one within a company or advising it may have previously experienced our current unprecedented combination of challenges.

Reviewing Directorial Responsibilities

Given the dilemmas, onerous responsibilities and multiple challenges, what should our expectations of directors be? My book *Creating Excellence in the Boardroom* begins with the sentence "If a company had a heart or a soul it would be found in the boardroom". Whether or not a company lives and grows or withers and dies can depend upon the purpose, values, will and drive that emanate from the board.

Directors should be the conscience of a company and provide rationale and vision. They should ensure the establishment of risk appetite, corporate goals, objectives and strategies, and also the assembly of the resources and capabilities required to achieve then. Their collective decisions can constrain and limit or enhance, release and direct the energies and competences of the people of an organisation and its various other capacities.

In particular, while others may be proud of past achievements and/or protective of previous investments, directors need to consider whether a company's people and other resources are relevant to current challenges and opportunities. Corporate capabilities should match corporate purpose and priorities. There is no point having and paying for capabilities that cannot be quickly accessed as and when required. One does not need to own a capability to have access to it and many companies possess capabilities that may no longer be relevant.

Covering Key Responsibilities

Directors should not overlook aspects of their role. The selection, appointment, monitoring and appraisal of a competent CEO, and deciding whether or not change is needed at the top are key board responsibilities. A change of CEO and/or MD is often easier to achieve when such roles and that of chairman of the board are held by different people. Mutual trust and respect are especially important in the relationship with a CEO/MD if the latter is to be open to a group that will assess his or her performance and willing to use it as a sounding board.

Directors should establish a framework of policies and values within which the CEO and executive team operate. They should determine the powers they would like to exercise themselves and what matters should be delegated. Plans need to be agreed and monitored and risk and compliance assurance sought. The physical, intangible and intellectual assets of a company need to be safeguarded and performance reported to owners and other stakeholders.

When I wrote *Creating Excellence in the Boardroom* I was concerned that the work of the Cadbury Committee on the financial aspects of corporate governance might lead to a focus upon the structure of governance arrangements, rather than what directors and boards do. Contemporary reviews should consider whether enough thought is being given to innovation and doing things differently when transformational change is required and whether and if so how the membership and practices of a board should change.

Addressing Areas of Concern

Directors could be asked about issues that most trouble them and/or which they would most like to discuss with their peers. In the current context, one might expect concerns about cash flow, solvency and whether or not a company would pass a going concern test. Other areas of interest could be priorities for dealing with customers and suppliers, particularly those that are thought to be especially significant, either now or in future. Some pre-pandemic key customers and suppliers might no longer be so important for future development.

Directors should be alert and sensitive to relationships with stakeholders, and when and how they should be engaged over matters such as managing expectations, re-thinking corporate purpose and priorities, transition to a different business, organisational or governance model and significant changes of pace or direction. They should also endeavour to objectively assess relationships between board and management, including the nature of any support required by management and how this might best be provided.

In certain areas, management may need some encouragement, for example to collaborate with other people and organisations in addressing shared challenges and opportunities and moving in new directions. During transition and transformation, management may face particular problems such as the motivation of those who may not be required in future, or programme managing a portfolio of inter-related initiatives and projects. Boards need to consider how such portfolios should best be monitored

Increasing Flexibility and Resilience

Boards have to simultaneously cope with multiple inter-related challenges, evolving stakeholder aspirations, and new business models, organisational forms and patterns of work. Some boards are overly cautious. They stifle new ideas and move at a glacial pace when encountering enabling technologies or better business models. Board rituals and governance arrangements have struggled to deal with some fast moving situations and disruptive shocks.

Covid-19 has exposed the inadequacy and lack of resilience and flexibility of many business models, board practices and corporate operations. Costly and lumbering bureaucratic organisations persist despite alternatives more suited to contemporary requirements. Boards need to support and ensure transition to more resilient, flexible, responsive and sustainable models of business and organisation that embrace networks of relationships that can evolve organically and quickly scale up and down according to circumstances and requirements.

Governance needs to be capable, flexible, representative, relevant and resilient. Greater attention should be given to what directors do - their behaviour, conduct and decisions - as opposed to board structures. Many boards need to re-assess corporate purpose, priorities and direction. Their emphasis may need to switch from monitoring and compliance to inspiring creativity, encouraging initiative, enabling innovation and supporting entrepreneurship.

Relating Governance to Situation and Context

Directors should be sufficiently self-aware and objective to reflect upon and discuss what value they think they have added and are adding in the current situation and where they feel they could make a greater contribution. They should assess themselves in relation to the strategic challenges and opportunities facing the company in question. We need a greater diversity of approaches that better reflect the varied aspirations, contexts, situations and stages of development of companies, whether listed, family or state owned, or start-ups.

Every company is to a degree unique. Unthinking adherence to standard governance arrangements should not get in the way of what needs to be done. Direction and governance should not be allowed to end up as box-ticking and the imposition of a standard model on diverse companies in a variety of contexts and almost regardless of requirements and circumstances. Corporate governance should not be a straitjacket and constraint on progress.

Understanding the distinction between direction and management is critical to appreciating what directors should be doing and increasing their contribution. While managers focus on their particular role, business unit or functional department, the perspective of directors should be longer-term and embrace the whole organisation, the context within which it operates and relationships with its stakeholders.

Confronting the Big Picture

An acid test for directors is the role they play in relation to environmental, bio-diversity and global warming challenges, where transformational rather than incremental change is required. Considerable moral courage may be required to resist certain vested interests and siren voices. Reverting to pre-pandemic priorities, operations and practices to satisfy a desire for recovery and growth and to generate the funds needed to discontinue damaging activities needs to be weighed against pursuit of more sustainable approaches and business models.

Recovering and carrying on as before might seem the easy option in the short-term, but the latter approach to the extent that resources allow might be more in tune with the concerns of ESG investors, many stakeholders and the younger people upon whom a company's future depends. There may be underlying boardroom issues to resolve. Individual directors may vary in their willingness to grasp nettles, embrace environmental and social as well as financial and economic objectives, or accept accountability to a wider range of stakeholders.

Stakeholder aspirations, preferences and priorities could be explored. There might well be opportunities for collaboration in the face of shared problems, including with Governments, regulators and other bodies in pursuit of Sustainable Development Goals. There may be new possibilities to investigate. Working with stakeholders and other parties to enable collective adaptation to new realities, development paths and lifestyles can build mutually beneficial relationships and provide a new rationale for responsible board leadership and enterprise.

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