

THE BOARDROOM CONVERSATION

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SNAPSHOT

- The chairman sets the tone for the board and is responsible for creating a climate of openness, challenge and productive dialogue.
- For a board to be effective, including in the exercise of risk oversight, it needs the right behaviours as well as the appropriate balance of experience and expertise.
- It is important to ensure that boards are continuously reinvigorated by managing recruitment and retirement procedures.

THE KEY ROLE OF THE CHAIRMAN

“The chairman should demonstrate the highest standards of integrity and probity, and set clear expectations concerning the company’s culture, values and behaviours, and the style and tone of board discussions.”

Guidance on Board Effectiveness, Financial Reporting Council (FRC), March 2011

The chairman sets the tone for the board and should ensure that the board is clear about the company’s purpose and is committed to its culture, values and behaviours. The chairman is responsible for creating a climate of openness, challenge and productive dialogue. A good chairman, rather like a conductor of an orchestra, will seek to ensure that everyone is fully engaged and able to make an appropriate contribution to discussions and decision taking. This requires sensitivity to group dynamics – noticing who has spoken and who has not, encouraging constructive challenge, collaboration, and the sharing of relevant experience and expertise.

For a board to be effective, including in the exercise of risk oversight, it needs the right behaviours, as well as the appropriate balance of experience and expertise. The chairman has a critical role in the recruitment of non-executive

directors (NEDs), ensuring that newly appointed NEDs have a thorough induction and an ongoing process of deepening their understanding of the organisation, including its risk profile. The chairman needs executive directors to take responsibility for identifying and raising issues and risks that should be reported to the board.

The chairman manages the agenda, plays a key role in overseeing the flow and quality of information, and ensures that board members can give sufficient time to make sense of the information.

Many chairmen, when describing best practice, talk of leaving egos at the door and cite ‘true independence of mind’, ‘a refined set of people skills’ and ‘leading with a rod of iron’ as key characteristics of good chairmanship.

THE GROUP DYNAMICS OF BOARDROOM DEBATE

“The challenge should not be underrated. To run a corporate board successfully is extremely demanding. Constraints on time and knowledge combine with the need to maintain mutual respect and openness between a cast of strong, able and busy directors dealing with each other across the different demands of executive and non-executive roles.”

The UK Corporate Governance Code, FRC

According to one chairman, the indispensable characteristics of a good board are “commitment, character and cutting edge” and “the best and the broadest mix of relevant skills and experience that we can find”.

The behaviours of board members – the group dynamics – are as important as the mix of skills and experience. Good decision-making requires collaborative,

independent-minded individuals offering constructive challenge and support in an environment of trust, openness and transparency. Creating the necessary conditions for trust and openness to thrive requires clarity about the function of the board and the roles and

responsibilities of board members. Members represent different interests and different stakeholders and such differences need to be acknowledged, while also being clear that board members hold a collective responsibility for the good governance of their company. There are times when an individual is representing and argues for a particular interest or stakeholder. At other times, they need to suspend that position and be open to a more collaborative dialogue .

There is an inevitable tension in a board that consists of both executive and non-executive directors, including between the chairman and the chief executive. The chairman is there to champion the chief executive and provide ‘air cover’ when necessary. But there may come a time when they have to manage the chief executive out of the business. Likewise, NEDs offer both challenge and support. Executive directors have to balance the value of the insights and guidance that the NEDs bring with what can sometimes feel like onerous commitments to keep them sufficiently briefed. Some NEDs need to have significant sector expertise to be able to get to the ‘heartland’ of the business and ask causal questions. But NEDs must also have the confidence to ask the ‘big, stupid questions’ that can tease out an important issue that is being overlooked.

HOW TO FOSTER A DEBATE THAT WILL BEST IDENTIFY KEY RISKS

“We must be prepared to challenge, confront, disagree and probe, but always in a way that is constructive and supportive of the business agenda. Nothing should be left unsaid within a team that is committed to success.”

Niall FitzGerald KBE, when Chairman of Reuters (now Thomson Reuters plc)

To avoid ‘risk blindness’, boards need to challenge received wisdom and ask themselves what would be the worst thing that could happen. The boardroom should be a place where the most critical issues are discussed, where everybody feels they can ask the necessary questions and get fair and appropriate answers.

Constructive challenge requires the skills of critical thinking; suspending judgement; engaging in open dialogue; considering what has been left unsaid as well as what has been said. It takes time, and the management of time and the design of the agenda are important; noticing if a discussion is too rushed or if critical steps have been missed out; ensuring good closure, with clarity on

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actions and responsibilities. According to the FRC, executive directors should “appreciate that constructive challenge from non-executive directors is an essential aspect of good governance” whilst NEDs should “devote time to developing and refreshing their knowledge and skills, including those of communication”.

The FRC suggests that the board has particular responsibility for identifying risks linked to strategy or resulting from external developments – ‘top down’ risks – contrasted with ‘bottom up’ operational risks which are the responsibility of management to identify and, where appropriate, bring to the attention of the board. However, these distinctions do not hold when it comes to the board’s responsibility for managing risk. As the FRC notes, “While the greater awareness of ‘Black Swan’ risks was welcomed, this ought not to be at the expense of addressing more ‘traditional’ risks”.

One chairman suggests that an essential requirement of good corporate governance is that effective risk management systems are embedded in the business with management tools which have a clear line of sight, through risk and responsibility and right up to the board room. Then agendas, be they group, divisional or business streams, will be driven accordingly.

OVERCOMING ‘GROUP THINK’, A LACK OF CRITICAL DEBATE OR DOMINATION BY CERTAIN INDIVIDUALS

“An effective board should not necessarily be a comfortable place. Challenge, as well as teamwork, is an essential feature. Diversity in board composition is an important driver of a board’s effectiveness, creating the breadth of perspective among directors, and breaking down a tendency towards ‘group think’.”

Guidance on Board Effectiveness, FRC, March 2011

A climate of openness and respect is a prerequisite for a high quality of debate. The chairman will usually take the lead in encouraging awareness of the diversity and range of skill in the room and for individuals to stay open to others’ perspectives. High quality debate requires everyone to have a chance to speak and to feel able to challenge conventional wisdom.

Occasionally people may say outrageous things and that has to be taken on its

merits. What needs to be guarded against is that no-one should feel intimidated; no individual or clique should start to dominate the agenda nor should individuals stop listening – good debate requires participation rather than nodding heads, collaboration but not collusion.

Ensuring that the board and the committees of the board are refreshed regularly is a way to guard against ‘group think’ and the domination of a particular group or groups in decision taking. Refreshing the board also helps to avoid complacency or the situation where too much reliance is placed on particular individuals. When a NED makes a valuable contribution over a number of years, it can be difficult to decide on an appropriate date for retirement.

HOW TO DEAL WITH BOARDROOM CONFLICTS OR DIFFICULT SITUATIONS

“If you set the right climate, you get great people. With great people comes great chemistry – people willing to say what they think; making added value contributions in an atmosphere where executives feel supported where appropriate, and challenged when necessary.”

“If you get self-seeking, power hungry egotistical non-executive directors who are there to promote themselves and prove something to the outside world, it becomes adversarial and dysfunctional.”

Sir Roger Carr, Chairman of Centrica plc and President of the CBI

Board preparedness and clarity of function and roles can help reduce the likelihood of conflict but is unlikely to prevent it completely. When the issue is inter-personal, the influence of the chairman is significant in guiding – sometimes coaching – individuals to understand their role on the board and the impact of certain behaviours. The process of regular board evaluation is a helpful process by which to identify and address such issues. If the chairman is seen as part of the problem then the SID would be expected to manage the situation.

Sometimes there will be conflicts of interest that need to be aired and addressed. An example of this might be involvement with a stakeholder with some commercial or other link to the company, such as a customer, supplier or trade organisation.

In any board conversation, it is incumbent upon directors: to be well prepared and clear on the purpose of the agenda; to stay with the evidence and notice assumptions that are being made or when issues become personal; and to notice how they and others react when being challenged or when their views seem to be unappreciated or ignored.

Whilst not avoiding the courageous conversations and risking constructive conflict, it is also important to gauge when a particular interaction is getting stuck or into a downward spiral that is better curtailed and taken off-line.

THE ROLE OF THE SENIOR INDEPENDENT DIRECTOR

The role of the senior independent director (SID) has increased in importance in recent years, particularly in a corporate crisis when both chairman and chief executive come under fire from various stakeholders.

The role of the SID is also important at other times of corporate uncertainty, for example, if there is a major conflict between the chairman and chief executive or if other directors or stakeholders believe that the chairman or chief executive is not addressing their interests.

In normal times, the SID is valued as a highly independent and experienced director who acts as a sounding board for the chairman and leads the evaluation of the chairman on behalf of the other directors. The SID can also play an important role in helping new NEDs settle in and find their place on the board, and acts as a conduit between NED and chairman. They will demonstrate the characteristics expected of an effective board member and, to that extent, will contribute significantly to the quality and tone of board conversations.

WHEN AND HOW TO RESIGN FROM THE BOARD

Occasionally, there are circumstances when a director or directors will consider resignation from the board.

The reasons behind such a choice can vary significantly. It may be that there is an overly dominant individual, or group of individuals, on the board who is driving an agenda that raises serious issues of accountability or good corporate governance. Or an individual director may find that circumstances have changed so that they feel unable to devote the time or feel that they can make a valued

contribution to warrant their continuing membership of the board.

In the latter case, it would be important to talk to other directors, including the chairman and possibly the SID to discuss the situation. Regular board evaluations can help to provide some context and independent feedback to more accurately assess the individual as a vital tool as well as to assess the collective value of members of the board. By aiming to have a diverse board, it is inevitable that people will bring a different mix of experience and expertise that will be called upon in different ways, depending on the critical issues that the board is addressing. The *UK Corporate Governance Code* encourages board members to continue a process of self-development and to up their skills in some important areas. It may be that this is a process of ongoing learning and that with practice and support, directors can become increasingly effective. Or the conclusion may be reached that it would be appropriate for a director to resign.

The process of election and re-election to the board is critical in ensuring that boards are continuously re-invigorated, so it should be part of the ongoing management of a board to actively monitor and manage both the recruitment and retirement of board members.

In the case where a director feels compelled to consider resignation on the basis of principle then the circumstances are more sensitive and complex. The first step for a director is to take as detached a perspective as possible about the situation and to be as clear and precise about the grounds for possible resignation. The board's role is to challenge and support and, if there has been vigorous and open discussion, there will be occasions when individual directors will pragmatically support a decision that they argued against. At other times, it might be an issue of principle that is so important to them that the only way they can register their opposition is through resignation. In such circumstances a careful conversation with the chairman would be essential.

If a director or directors have concerns about the chairman or they or shareholders express concerns that are not being addressed by the chairman or

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the chief executive then the role of the SID becomes pivotal and he is expected to work with the chairman and other directors to resolve significant issues.

KEY ACTIONS FOR BOARD MEMBERS

- Ensure a clear and shared understanding of the board's purpose, function and individual and collective roles and responsibilities;
- Leverage the full range of experience and knowledge available and ensure that all voices are heard;
- Engage in vigorous discussion, constructive challenge and support in a climate of openness and respect;
- Commit to an ongoing process that deepens your understanding of the organisation, including its risk profile.

CONTRIBUTORS

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CONVERSATIONS THAT CAN WRECK REPUTATIONS

Organisations may expect their good reputation to last indefinitely, but this is a dangerous assumption, particularly with the advent of social media.

Maclaren, a Northamptonshire-based pushchair manufacturer, was a successful exporter and an iconic brand in the eyes of mothers when, in 2009, it reacted to reports of child "finger amputations", involving pushchairs in the US, with a major product recall there. But the company was then perceived not to have applied a similar standard of post-event action in UK and Europe. The result was damage to its brand.

This was a product problem where the company took advice and followed standard practice, yet rapidly discovered that its response was insufficient to satisfy public concerns. The role of mumsnet.com in this case is particularly interesting. Maclaren had previously benefited from glowing testimonials about its products on the site, but it became a rapid, targeted and influential channel for complaints after the crisis struck.