

**Comments by Lynn McGregor, Convivium**  
**14<sup>th</sup> August 2002**  
**on the**  
**Review of the role and effectiveness of**  
**non-executive directors**

## **Section A - Role**

### **What role should non-executive directors perform, and how does this compare to the present position?**

The role of a non-executive chairman and a non-executive director are different and ought to be dealt with separately.

The Ned has four distinct roles

1. To function within the board as a whole and to contribute to high-level decision-making and enhance public perception of “management”. This includes helping to select or dismiss directors. This also includes maintaining a balance between providing checks and balances and ensuring entrepreneurial opportunism.
2. To bring in particular perspectives, talents, experience and expertise
3. To take part as a committee member in certain committees
4. To establish relevant relationships with the CEO, Executives, Shareholders Investors and Media

The current role of the Ned on the board is to help the chairman make crucial decisions about the fate of a company; to safeguard the interests of shareholders and if appropriate, to support the CEO and his or her team to produce desired results. They are there to provide knowledge, experience and expertise relevant to the company. They are also there to give independent views and to contribute to discussions about high-level issues. In some cases, Neds should question, challenge and add to the quality of strategic decision-making. They can also act as advisors or coaches to executive directors, if they can do this without losing their non-executive and independent focus.

They have both a watchdog role and a role to ensure the sustainable competitive advantage of a company. They also act as the bridge between the company and the outside world, particularly in terms of perspectives about the market.

Governance means to “govern over”. This implies independence of thinking about the company that is being governed.

They also have a role to be available if and when a crisis arises.

They also have a role to appoint and suggest the resignation of the chairman and CEO if they are not delivering or are not behaving in conformance with regulations are good practice. They should also be responsible for policy decisions about pay and remuneration.

The de facto role is not very clear, given that every company is different and has different requirements. There are also some issues that need clarification. It is sometimes difficult to act in the interests of the shareholders and at the same time develop a collaborative relationship with the CEO to support him or her to improve the performance of the company. Conflicts of interest need to be stated and resolved, particularly if a Ned has share options. Finally, many Neds complain that they do not have sufficient timely information to make intelligent decisions and many do not have the time available to do their job justice. There is also the difficulty that directors are held accountable for the performance of a company over which they often have no control.

My view of the role non-executives should perform is one of responsible governance. This means making decisions about the fate of a company. Collegiate decision-making is a key role of non-executive directors. Providing independent outside perspectives is an integral part of the process. In companies that perform consistently over a period of time, non-executive directors need to be available to make sure that the company does not get complacent or overlooks key opportunities or risks. They are also there to ensure that the competencies of directors are regularly upgraded. They will have different roles depending on the situation of the company and its stage of development. I would therefore advocate simple generic roles for all companies and guidelines for different roles according to the needs of different companies.

Many discussions about corporate governance are related to structural answers about governance, codes of practice and regulations. While these are essential, they do not take into account that the success of a key decision is dependent on the type of people, their styles, attitudes and culture; their shared understanding of often complex issues and their ability to communicate and make decisions. Although I do not have an answer, many Neds find it impossible to act only in the interests of shareholders, rather than take all stakeholders into account. This needs to be re-valued and changed, as it does not really work in practice.

Although Neds do not have executive responsibility, their responsibility to govern is as important. For them to do their jobs properly training is necessary and they need to have enough time to digest, think and discuss weighty matters. Current practice does not give Neds enough time for this and means that many non-executives are extremely amateur in the ways in which they operate. Neither are they sufficiently remunerated for the levels of work they are expected to perform.

Finally, the role of Neds is becoming more demanding and complex. Not only that, but because they are responsible, it is becoming increasingly risky, given that insurance companies are increasingly reluctant to bail them out because of negligence or poor governance.

In addition, major investors and shareholders are making increasing and often unrealistic demands on boards. The question of Neds begs the question of whether in fact the

system as whole, including the role of investors, needs an overhaul. I believe that the fundamental issues surrounding Neds should be seen in the wider context. We need to dialogue around what are the bigger issues, are we asking the right questions, what is the role of regulations and government and how much can realistically be achieved?

*What I would like to see is a reassessment of the meaning of governance and a debate about what is really necessary in the twenty first century. My feeling is that we are plugging outmoded paradigms, cultures and structures and that it would be better to do some blue sky thinking before trying to patch up something that may in the long run be unworkable.*

Much of my comments are in the context of trying to make current practice better, rather than working on a totally different model.

A great deal of improvement can be done within the existing system. However, the challenge is to convert current resistance by companies to take governance seriously into guidelines for good practice that they enthusiastically embrace.

I do, however, not subscribe to the suggestion by some that the role of the non-executive director be scrapped and that the CEO should be totally accountable for his or her returns and that shareholders should have a greater role in moderating CEO performance. Companies do need to be governed and by people who understand the workings of companies. In my experience, the majority of key investors and analysts do good work, but do not have a clue about how companies are run or understand the complexities of the human aspects. Given that there is only a negative correlation between company performance and market value, I do not see how this would work.

Possible issues for comment:

1. **What is the role of the board? What is the role of the Chairman and how does it relate to the non-executive directors?**

**The role of the board. To govern.** For more details of my views, read pages 171-197 of my book “The Human Face of Corporate Governance”

**The role of the chairman.**

To manage the board, to facilitate a communication and decision-making process; to ensure that directors contribute and give value; to co-ordinate and distil different perceptions and views and to ensure that good and timely decisions are made. The role of the chairman is also to build an effective working relationship with the CEO and Executive Committee to ensure that the work of both the board and executive is being carried out in the best way possible. The chairman should also set the standards and expectations for board behaviour and performance and take leadership and control for board development. He/she should also manage interpersonal conflicts and tensions and any dysfunctional behaviour that might arise. He/she should also indicate to the CEO the standards of information and dialogue required by the board and ensures that information and presentations are up to standard.

The style and attitude of the Chairman and CEO set the tone and working practices of the board. The role of the chairman to understand the added value of his or her directors and to orchestrate talents and expertise is an essential element of a successful board.

The chairperson should see to it that the human capital of his board and individual directors are professionally assessed so that there is real understanding about how best to utilize each director. This should also apply to the chairman.

It is my believe that many chairman need to be more professional about the ways in which they run boards and should go through regular training processes, particularly in terms of understanding and optimising director potential, facilitating meetings and getting the dynamics right. They should also train in and become more competent in understanding and mastering the art of decision-making, given that managing the decision-making process is one of their key roles.

2. **What should be the key roles of non-executive directors on the board and what should be the balance between the different components? Within a board, should all non-executive directors be expected to fulfil each of the different roles?**

The key roles of all non-executive directors would be to contribute independent and different perspectives on crucial issues, to ask the right questions and provide intelligent debate on key issues, as a body as far as possible, to make crucial decisions. Non-executives are expected to be strong minded, to voice concerns and to ensure that they are heard in good time. If appropriate, they may also be expected to bring in particular expertise and coach directors in companies in a formative stage.

There should be a balance between monitoring, ensuring that business opportunities are maximised, providing technical and financial expertise and making sure that the executive have all the parts in place to deliver results on time with no unpleasant surprises. To do this, they also need access to information and to be reassured that there is adequate internal infrastructure to monitor both financial and intangible progress. They need to be able to detect difficulties before they become “Enron” problems.

The composition in terms of role should relate to good housekeeping for all boards and should be particular to the current and future needs of the business being governed.

The roles of each non-executive director will differ according to their particular talents, interests and expertise and should be assessed and rated accordingly. This should include the modes of thinking, emotional and ethical input that add value to the decision-making process.

They also have a major role in providing sound and wise and intelligent judgement. This means being able to make major contributions to the thinking and workings of the board.

Particularly when there is a dominant or incompetent CEO or Chairman, I am in favour of there being a leading non-executive who can work separately with non-executive directors when appropriate.

### **3. How does this compare to the present position?**

The present position is that according to our research, most Neds are operating at 60% below their full potential because of lack of knowledge and professionalism by the chairman, inadequate facilitation of non-executive directors and lack of ability by non-executive to really give value when contributing.

The importance of ensuring the quality of decision-making and appropriate levels of perspective is often neglected. Understanding and mastering the decision-making process is seldom mentioned as a key component for governance. Neither is the importance of getting the dynamics and processes right.

Tick lists do not take into account the importance of intelligence, working relationships, high-level analysis and evaluation, intuition, common sense and creativity.

Many boards are full of amateurs do not yet understand that the global game has changed and that much more is demanded of them. I am not sure many understand what responsible governance in its best sense, really means.

The fact is that most of overpaid for what they contribute and grossly underpaid for what they should really be doing. In addition most Neds do not have adequate and timely information, let alone enough time to absorb information and give considered time to think about things. Although I believe that Neds should have a working knowledge of what goes on in a company, the argument that they should know every thing or go into great detail, is unsound. In boards where the right amount and quality of information is given, the Neds are able to provide the standards of thinking required.

### **4. How independent do non-executive directors need to be for the different roles?**

For the key role of monitoring and arriving at crucial decisions, it is absolutely vital for Neds to be independent. This means no conflicts of interest and the ability to ask difficult questions and say unpopular things. Also to insist that their views are really heard by the chairman, the board and the executives.

In circumstances where a Ned may be supporting the executive for some reason, there needs to be an explicit agreement that they are not executive and the fact that they may be helping does not take away their right to make an independent judgement at the end of the day.

The audit committee and the nominations committee should be composed of independent directors.

In small companies where often non- executives are asked to play a supportive almost executive role in helping to establish a company, the situation is different and in that sense it is impossible for them to be detached from the company.

There is also a difference in a board where the company is obviously developing and growing, when it is in the mutual interest of the board and management to enable the

company to succeed. This is different from a board that has to make strategic decisions that may be in conflict with the viewpoint of management. A board needs to be flexible enough to know what is appropriate and when.

**5. What are the main potential conflicts of interest, which may arise within a company where non-executive directors can play a role in protecting the interests of the company? What can be done to help non-executive directors to be effective in relation to these conflicts?**

No share options

Conflicts of interest should be declared from the beginning

Directors should not have shares in subsidiaries

Shares are acceptable but not share options

Family companies have particular difficulties

**6. What time commitment is needed for the role of Chairman and for non-executive director roles, and how far does this vary between different companies? Are there any implications for the number of non-executive posts that one person can sensibly take on?**

The chairman and non-executive directors should spend significantly more time than they currently do to give full attention to the information they need in order to make intelligent decisions.

They should also be able to promise to be available to deal with any crisis that might have to be dealt with and retrieved if the company is in trouble

Non-executives should not take on more than three posts. If a company needs particular attention, they should not have more than two posts. However, two posts can be useful as it enables non-executives to have a variety of experiences.

There is scope for non-executives who have limited time to make some kind of contribution, possibly from time to time. However, it is extremely limited and powerful but ignorant individuals can cause more damage by coming up with ad hoc decisions than not being present.

**7. Should there be a special role for a “senior independent” non-executive director?**

Yes, particularly in terms of succession, and selection of directors and in assessing the capabilities and conduct of the CEO and Chairman, where necessary. They are also especially necessary where there is a combined Chairman/CEO role to ensure that necessary checks, balances and challenges to thinking are carried out.

**8. Do you have comments on the proposed statutory statement of directors’ duties, which does not seek to distinguish between the legal duties of executive and non-executive directors?**

My feeling on this one is that given the current farcical status quo where non-executives are not really given enough time and information to make responsible decisions, that it is difficult for non-executive directors.

Given the outrage around CEO's payment packages, I do believe that CEO's and their executives should be held more responsible for the mistakes they make.

However, this topic needs much more discussion and should be connected to a re-evaluation of the role of the board in general.

## Section B - Attracting and appointing non-executives

**What knowledge, skills and attributes are needed, and what can be done to attract, recruit and appoint the best people to non-executive roles?**

This is covered in much more detail in my book “The Human Face of Corporate Governance”, Palgrave; 2001. I suggest that the last part of the book is taken into account.

### **Possible issues for comment:**

- 9. What are the key skills, knowledge and experience which are needed by non-executive directors to perform the role effectively, and how is this likely to change over the next, say, 10 years? Are some skills essential and, if so, what are they?**

#### KEY SKILLS

Understanding the real nature of corporate governance and willingness to fulfil roles in a professional way

To operate as a board member for the interests of shareholders, the company and other stakeholders rather than out of personal interest

Ability to see the company in perspective rather than get involved in financial or practical details

Ability to ensure that they have adequate and timely information

To have an overall framework within which to understand the business, its drivers and its risks.

This includes understanding of the following areas: market conditions, current and future, high level strategic thinking, financial, legal, technical, operational, structural and people. It also includes knowing what investors want and how the grow or change companies at a strategic level. It also includes being aware of public perception and taking responsibility for growing confidence. They should also have in their mind, the need to balance the monitoring role with that of ensuring that commercial opportunities are exploited. There also need to be skills and abilities to deal both with times of adversity and good fortune.

To be able to add value in terms of their own contributions, talent and experience

Understanding and possible competence in terms of mergers, acquisitions and where appropriate, ability to negotiate.

To make high level judgements and be a competent decision-maker

To know when to participate, influence or intervene and then to act.

Astute knowledge of human behaviour and ability both to support, encourage and stop non-useful interactions and behaviour

To ask significant and useful questions

To balance short and long term decisions

To move quickly and decisively if necessary.

The chairman needs the above skills. However, he or she also needs to be able to ensure that all board functions and roles are carried out, to understand and optimise the contributions of directors and to facilitate the decision making process. This includes taking into account and co-ordinating director contributions and moving to timely and successful decisions. Most of all the chairman needs to set standards for the performance of the board, the CEO and the executive in line with current and future challenges. It is the chairman's job to take responsibility for maintaining standards of performance, reviewing board activities and ensuring ongoing work to upgrade board performance. He or she also needs to establish an effective working relationship with the CEO and to be able to deal with interpersonal issues and or power games within the board.

In ten years there will be more and different regulations that board will need to consider. There will be fewer younger directors to draw upon. The nature of companies, particularly in the financial sector are also likely to change significantly. Boards and management will need to prove integrity and to be both more rigorous and creative to ensure competitive advantage. This means better and faster decision-making and greater flexibility to be able to deal with the unexpected. I also suspect that values about business and sustainable growth are likely to change. Enough key people are arguing that the system as a whole needs an overhaul for there to be indications that major changes are in progress, for example, a single accounting system. Hopefully also, measurement will increasingly include non-tangible audits such as for board capital and the quality of communications etc.

#### **10. What personal qualities and attributes are needed?**

Integrity, intelligence, emotional maturity, social competence, wisdom, courage and ability to speak one's truth and to be heard at the right time.

#### **11. What sort of mix of experience and attributes is desirable on a Board? Specific examples of cases where non-executive directors have contributed with particular effect to company performance, or to corporate governance, would be helpful.**

The description of the overall framework in 9 and qualities in 10 of this section describes the mix necessary for any board

Balance and emphasis of skills need to relate to the actual current and future business needs of investors and the company.

#### **EXAMPLES WHERE NED'S HAVE CONTRIBUTED**

In one company where the Ned's thought that the CEO was too inexperienced at managing a particular company and thought that his style was counter productive, they brought him in, shared their views and what they wanted. They also offered support. This saved a potential crisis. The company started pulling around and the CEO did not lose his job.

In another company, the chairman realised that there was not enough lateral thinking to come up with a different strategy. He facilitated a process where non-executives were invited to supply ideas to be explored. This got executives unstuck and the company moved on rather than being the victim of a hostile take over.

There are many other examples, too many to illustrate. Some can be found in my book.

**12. How easy is it to recruit non-executive directors with the right skills and attributes? Could recruitment and appointment mechanisms, including Nomination Committees, be improved?**

It is not easy to do this at present. The reasons why are that the assessment and screening mechanisms are not comprehensive enough. Also, the reason why non-execs are appointed are often political and not based on the actual contributions a director has to bring.

There is an enormous need for the professionalisation of the nominations committee and for assessment, recruitment and appointment mechanisms to be improved. Succession planning is, on the whole, very poor. Few Nomination committees have enough information on the actual and added value Ned's could bring, or training to select and interview candidates properly. Neither do many seem to have the skills to help Chairmen and CEO's who have passed their sell-by dates to leave in positive and dignified ways. There is also the question of remuneration packages offered to new comers and the illusion that fat packages are necessary to attract competitively.

I would recommend that at board level, policies and practices be agreed concerning recruitment, selection, induction and integration of new directors

**13. What could be done to widen the pool of potential non-executive directors and introduce greater diversity into appointments? What are the constraints on this? Is there scope for greater international representation on UK boards?**

The constraints for widening the pool are that NED selection is still an old boy's network and little is understood about the skills now needed for good governance.

Yes, greater international representation would improve the variety of approach and global awareness

Increasing the industry sectors many Neds are drawn from could widen the pool of potential. It is common for there to be finance people, but not often to see for example, retailers or e-commerce people in production companies and visa versa. There should be more retired human resources directors on boards in companies where there are people problems.

I also suggest that as part of their experience, very senior executives who are on top of their own jobs, should be trained and then encouraged to take NED positions in different companies to widen their own viewpoints.

**14. Are the rewards for non-executive directors appropriate, both in terms of levels of pay and the form that remuneration takes – e.g. cash/shares/share**

**options? Are current pay levels a significant factor in whether good non-executive directors can be attracted?**

There is a good case for straight attractive fees and for shares, but not for share options

Status is the reason why many people sign on. I do think current pay levels do not attract good Neds because few people are prepared to give up the amount of time needed or to take on the kinds of responsibility they are expected to carry.

**15. Do you have comments on the issue of risks or insurance provision for non-executive directors?**

It is my understanding that in the future insurance companies will be willing to pay out insurance for boards that have got themselves into trouble. Not only that, but those who do are likely to want to check in more detail that the NED is not personally liable for negligence. This will be difficult to prove either way

## Section C - Structures and accountability

**Do existing structures and procedures facilitate effective performance by non-executive directors?**

### **Possible issues for comment:**

**16. How is the Combined Code working in practice? In particular, how are the provisions on the balance between executive and non-executive directors and the role of independent non-executive directors working? Is further definition needed of independence in the Combined Code and, if so, what would a sensible definition be?**

The combined code can only work if the board as a whole understands the reasons for balance. Not only should the structure and composition be put in place to achieve balance, but also attention should be paid to Board dynamics and interaction processes to ensure that balance happens in practice.

Independent non-executive directors are expected to give independent, objective perspectives on key business issues and their views on what is going in the company. Independent directors should be honest and frank about their views and prepared to speak out even if their views are unpopular. They should also have independent views about the effectiveness of the Chairman and CEO. All views should be based on sufficient and accurate information.

**17. Do the recommended structures for board committees facilitate governance and an effective contribution by non-executive directors? Are board meeting procedures working effectively? Do you have comments on board size?**

With a few exceptions, the quality of board meetings is very poor. The CEO tries to present perfect reports etc and to railroad them through. He or she seldom presents key issues that need intelligent discussion. Levels of debate are generally not good enough and meetings are always conducted in the same ways even though the issues may demand different kinds of thinking or approaches. There is almost no facilitation training by Chairmen or directors about conducting high-level meetings.

The ability of managing board size is dependent on the capabilities of the Chairman. It is possible to conduct excellent board meetings with small and large groups of people. However, the dynamics and processes will be very different. Not many Chairpeople are skilled enough.

**18. Do you have comments on the composition and duties of Audit Committees? How effectively are Audit Committees working in practice? Do you see a need to strengthen the existing Combined Code provisions on Audit Committees?**

The audit committee ought to ensure that internal auditing is adequate and works. Also that the quality of financial reporting is good. They should also make sure that they are happy with the external auditors. There should be policy and processes for directors to bring up concerns about any of the figures and directors should have complete access to any information they require. Audit should also include the “softer” sides of governance, given that the quality of governance significantly influences financial results

**19. Similarly, do you have comments on the composition, duties or operation in practice of Nomination and Remuneration Committees?**

The same as for 19.

In terms of the Nominations committee, the members should not include the Chairman or CEO. They should however, be consulted and their views taken into account. The Nominations Committee should either use professional consultants to help them with succession, selection and integration of new directors, or have professional training. Amateur dealing with this subject is one of the reasons why so many appointments have failed, with drastic results. Job descriptions should be based on three elements: -  
Whether a new director creates the right power and decision-making balance  
Whether they have the requisite talents, skills and expertise  
Whether their specific contributions are relevant to the current and future business needs and whether they have the standards required to meet current and future challenges and demands.

The Nominations committee should submit policy proposals about succession planning to be agreed by the board and then kept to.

In terms of the Remuneration Committee, composition should be all non-executive. Any conflicts of interest should be stated up front as a matter of course. The Committee should be aware of best practice elsewhere. Pay etc should be performance related. The myth that you have to pay high market prices for CEO’s may not be as true as many people believe.

**20. What processes are in place for setting objectives and reviewing performance against those objectives, for the board as a whole and for individual directors?**

Very few boards set objectives, as they do not know what is expected of them. There is also the excuse that reviewing takes precious time, although I understand that financial performance is better when boards review their performance. I would suggest that standards and objectives are set against what is required to meet business and intangible needs. The views of the top analysts, institutional investors, media and other stakeholders should be taken into account. All directors should be consulted and agree to

the objectives drawn up. This should be the job of the Chairman who should both set standards and make sure that they happen.

**21. Could more be done to review performance? Should more information on board performance be reported to shareholders? Should companies provide more information on the performance of non-executive directors?**

A lot more could be done, both externally and internally.

External Reviews should be done on a regular basis because no group of people can assess their performance on their own. For example, there should be Board Director Capital Reports and Reviews of performance against best practice.

Internal reviews should be done off site on a regular basis for directors to explore what could be improved and how. The Chairman should run these and share his or her views on how well they think the board is doing.

The way information is shared with people external to the board is a matter of extreme sensitivity. Board dynamics are extremely complex and any review cannot reflect the nuances and scope of the work of the board. It is helpful to shareholders to understand that when there are problems, the chairman understands both positive and negative factors and is seen to be dealing with them. It also helps for shareholders to know about the competencies of the board as a whole and directors.

However, there is a great danger that institutionalised and formal review could turn into a witch-hunt and put people on the defensive. If this happened, Review would be counter-productive.

**21. Are non-executive directors able successfully to challenge executive decisions or expose serious problems? Should it be made easier for them to do so and, if so, how?**

It depends on the Chairman and the quality of directors. Some do and some don't. What makes it easier are that expectations are spelt out and roles clarified so that the executives understand that it is the job of independent directors to challenge. Many CEO's would have benefited by good governance if Ned's had provided the right checks and balances at the right time, so I believe that good CEO's would welcome this. Good Ned's can also help stretch thinking and ensure that standards are improved.

## Section D - Relationships with shareholders and others

Do existing relationships with shareholders or others need to be strengthened?

Yes

### Possible issues for comment:

**23. How well do relationships between non-executive directors and shareholders and stakeholders work, and could they be improved? For example, we would be interested to hear views on what the relationship might be between non-executive directors and institutional shareholders. How could this relationship be strengthened?**

Relationships could be improved significantly with better communication and if management was authentic and acted with integrity.

The relationship between management and investors should improve from both sides and should be the subject of a longer discussion. The current culture is not conducive to constructive relationships being formed when appropriate. Investors do not seem to understand how management may feel about their questions and Investors think that management is sometimes trying to whitewash things.

**24. To what extent are Chairmen creating the conditions for non-executive directors to be effective? Is there more that they could do, by promoting constructive relationships, managing the discussion processes, encouraging challenging and effective contributions in board meetings and ensuring appropriate information flows, or otherwise?**

All of the above. Chairmen need to be trained. They also need to insist that time is taken to do all these things. A board that has all these things has a much higher chance of success.

I would also recommend advanced training by all directors in the art of listening, understanding and mastering the decision process and training on the ability to lead, direct, influence and persuade. I also recommend training in mediation and the ability to deal with conflicts and relationship difficulties in real time.

**25. What should be the relationship between non-executive directors and executive directors, and with senior management? What should their relationship be with the Chairman and the Chief Executive? What should their relationship be with key advisers to the company?**

This will differ with the size, stage of development and needs of the company.

Non-executive directors primary role is always to govern, never to manage. The best relationships with executives are cordial and supportive, but where it is always understood that Ned's act within the interests of the shareholders. Ned's can give enormous value as coaches and mentors, provided their ultimate role is understood. They should challenge and stretch thinking and provide alternative perspectives. Most of all, they should ask intelligent questions. When it works, the CEO learns something valuable and uses it.

They are also responsible for removing ineffective CEO's and having a succession process ready to replace them.

The chairman manages the board and therefore the Chairman who sets the tone and the style of the board manages non-executives.

If the Ned's vote lack of confidence in the Chairman, they are responsible for asking him or her to leave and to replace them. There would need to be fair and reliable evidence that this was really necessary.

**26. How can Company Secretaries support effective performance by non-executive directors?**

By researching and reporting on best practice.

By checking that each director has the quality and amount of information needed, well in time.

By oiling the wheels between Chairman, CEO, directors and other stakeholders

By ensuring legal and fiduciary duties are met

By alerting the Chairman to key issues

## Section E - Support

### **How can non-executive directors best be supported to perform their role?**

1. By clearly understanding the nature of their roles and what standards are expected of them – chairman’s job.
2. The profile of every non-executive should be taken so that there is clear understanding of what their unique contributions are and how they add value to the decision making process. This should also include information about the kind and amount of information directors required, and their preferred ways of working. This can then form the basis for the chairman to channel their energy and untapped potential more effectively. It also helps the CEO and his or her team to understand where each director is coming from.

### **Possible issues for comment:**

#### **27. How much access to information from management do non-executive directors need to be effective? In practice, are information flows and communication channels sufficiently open and unrestricted?**

There are two levels at which this needs to be tackled. The first is agreement with the chairman and the board together on what information is necessary for certain decisions. Guidance to the CEO should also be given about how they would like presentations submitted and what issues they would like highlighted.

The second level is that every non-executive director has different learning needs for what they require in order to make informed and considered opinions. These should be taken into account.

Non- executive directors should have free access to any information they require at any time.

No, information flows and communication channels are not sufficiently open and restricted. This ought to be discussed by the board as a whole and policies formulated around what are required. This should then be spelt out to the CEO in concrete and tangible terms and should be feasible.

#### **28. What training and development opportunities are available? Could they be improved and, if so, how?**

There is some, but not enough of the type of quality needed. However, as a training provider, the problem lies more with resistance by directors. Most avoid the subject like the plague. It should however be the chairman’s role to insist and to make the time

available, but not in piecemeal fashion. A serious developmental programme should be agreed and adhered to.

**29. Can induction for non-executive directors be improved?**

Without doubt. There is enormous difference between good and poor boards.

**29. Do non-executive directors get clear guidance on what is expected of them and do they get feedback on whether they are meeting expectations?**

Very few get clear guidance. Very few get feedback about whether they meet expectations. Where it has worked best is feedback by the Chairman on the board as a whole and where feedback is used constructively rather than critically.

# **In relation to all of Sections A to E – please consider the following two aspects:**

## **Section F - Smaller listed companies**

**In what ways is the position different for smaller listed companies?**

Roles are more blurred

### **Possible issues for comment:**

**31. To what extent do different factors apply in the case of smaller listed companies? Is different provision necessary?**

In one way the principles of governance are exactly the same and smaller companies should make sure that there are non-executive directors who can give impartial views. They almost need it more than larger companies. However there is a kind of non-executive director who can take a more executive role because the company needs expertise. I would include these directors, but give them a different title like “semi non-executive director.

## **Section G - International context**

**What can we learn from international experience?**

A lot

### **Possible issues for comment:**

**32. What lessons can be learnt from international experience, either in terms of structures or behaviours?**

Comparing best practice against international experience is vital. However, each country does things differently and this should be respected. It would have extremely negative consequences if the UK went down the US route

**33. Do other models of corporate governance or different boardroom roles or dynamics contribute more to company performance?**

All have advantages and disadvantages. What is in common is the quality of directors and their ability to make intelligent decisions.

**33. Would it be beneficial to bring UK practice more in line with that in any other countries? If so, why and how?**

No. As far as I know we are well in advance of most other countries

## **Other comments**

The role and payment of non-executives should be fully articulated. The most important factor is that non-executive directors give enough time to a company and are prepared to be available when a company or CEO is in trouble. It is not possible to take corporate governance seriously at present.

Too much emphasis on structure and not enough on ethics, integrity and the quality of people.

Non-executives, especially not chairman are sufficiently trained or have the skill levels required of them in our current climate.

The situation is very serious, but the response by boards does not indicate that they have the message.

They would seriously have to take the importance of upgrading their performance on board for change to occur. This means dealing with current arrogance, defensiveness and resistance to change. E.g. Corporate Governance conferences are seldom attended either by Chairman or CEO's who should be the ones on the learning curve.

More resources should be made available for the systematic grooming of potential board members. Successful executives should learn how to be non-executives and take up places in boards in other industries for cross fertilisation to take place.

Filename: Lynn McGregor.doc  
Directory: C:\tmp\work\R501110\KAREN\R501110  
Template: C:\Documents and  
Settings\kanese.DEVELOPMENT\Application  
Data\Microsoft\Templates\Normal.dot  
Title: Comments by Lynn McGregor, Convivium  
Subject:  
Author: camassey  
Keywords:  
Comments:  
Creation Date: 04/10/2002 10:58  
Change Number: 1  
Last Saved On: 04/10/2002 10:59  
Last Saved By: camassey  
Total Editing Time: 2 Minutes  
Last Printed On: 11/10/2002 10:16  
As of Last Complete Printing  
Number of Pages: 20  
Number of Words: 6,198 (approx.)  
Number of Characters: 35,333 (approx.)