

HOW CAN NON-EXECUTIVE DIRECTORS BRING VALUE TO YOUR BUSINESS?



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The recent mid-term review of the NDA's pilot SME Mentoring Scheme launched in February 2014 culminated at the November NDA Estate Supply Chain Event with CEO John Clarke announcing that the Scheme would be re-run annually.

Businesses are continually looking for ways to improve their efficiency and competitiveness with a view to winning work, and this is particularly true of SMEs, especially those eyeing the not insignificant opportunities of the UK nuclear sector.

The NDA SME Mentoring Scheme had more willing volunteer high-calibre mentors and mentees than had initially been envisaged. This suggests that both mentors and mentees see and appreciate the value such initiatives bring to the sector.

But what else can be done to add value – cost-effectively – to small businesses eager to expand and grow?

In UK-listed companies (and those private companies which, as a matter of good practice, mirror to a greater or

lesser extent the governance regime of a listed company), the non-executive director (NED) has long-been regarded as a necessary participant and contributor at board level. As a separate and distinct board member the NED has a key role in ensuring high standards of corporate behaviour and added new checks and balances on that behaviour.

Alongside their review and oversight function, businesses should not underestimate the contribution that good NEDs can make to corporate commercial success.

The UK Corporate Governance Code published by the Financial Reporting Council identifies various

elements to the NED's role. NEDs are expected to:

- constructively challenge and develop proposals on strategy;
- scrutinise executive management performance against agreed goals;
- satisfy themselves on the integrity of financial information, and that financial controls and systems of risk management are robust and defensible;
- determine appropriate levels of remuneration for executive directors; and
- play a central role in appointing and removing executive directors and in succession planning.

NEDs may perform a useful role acting as a sounding board to the executive management, although they should also be prepared to challenge executive management when required



and take into account the views of shareholders and stakeholders where appropriate.

Because of this, NEDs typically need to be sufficiently experienced as well as robust enough to carry weight in the board's deliberations and ultimate decision-making. In addition to these personal qualities is a requirement for the director not to have any material conflicts of interest (or for these to be capable of being effectively managed).

While the time commitment of a NED is generally likely to be less than an executive director, NEDs should be aware of the potential additional time commitment they may be expected to devote if the company is the subject of a takeover or management buy-out, or if executive management are unable to act (e.g. if they are the subject of an internal investigation).

Potential NEDs should also be aware that the duties to which executive directors and non-executive directors are subject are the same. A director will have to comply with all the

usual duties of directors including those set out in the Companies Act 2006. NEDs will therefore always want to ensure that they are given access to appropriate, accurate and up-to-date financial information and board papers and that appropriate arrangements are in place to enable them to participate fully and effectively in board decision-making.

Alongside their review and oversight function, businesses should not underestimate the contribution that good NEDs can make to corporate commercial success. This does not detract from the need to have quality executive directors who know the sector as well. However, NEDs can bring a different perspective and contribute valuable insights.

NEDs are an established feature in public companies, and can bring significant benefits. Whilst not expressly subject to the same governance requirements, there is no reason why NEDs cannot be utilised equally efficiently in small companies. The NED may for example have significant

experience in an area of particular importance to a small company, and due to the usually part-time nature of their appointment, the benefits of an experienced NED may be acquired at a relatively modest cost.

Whether a NED delivers value for money will ultimately be a question for the company which is considering appointing him or her. A NED is one of the options to help equip a company with the right skills and management structure, especially in a technically complex and challenging area like nuclear.

If you would like to discuss the contents of this article or the commercial benefits that NEDs can bring to your business please contact Gareth Davies on gareth.davies@burgess-salmon.com or telephone 0117 307 6920.



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