Introduction

The role of an executive director can be challenging, stimulating, life-changing, influencing and often just very hard work. It is important to be able to keep an appropriate balance between the varying roles, accountabilities and responsibilities for which you are employed by an organisation.

- Leadership and management of a particular section or department and being a member of the senior operational management of the organisation.
- Ensuring the organisation remains focused on delivering its core business objectives.
- Governance and strategic responsibility from the wider board perspective.

These checklists for executive directors are designed to deliver a number of differing stimuli to help in these challenging and often opposing expectations:

- clarity of understanding;
- reminder of key requirements; and
- questions to challenge oneself and others.

These checklists are neither prescriptive nor exclusive. They will not all be relevant to every executive director and they do not cover everything that an executive director needs to know.

I am nevertheless confident that there will be something challenging contained herein for every executive director, irrespective of type or size of business organisation.

The book should be used to sense-check specific aspects or to dip in and challenge oneself.

Every organisation is different, and every director is different.

There is very rarely, if ever, only one right answer in the world of corporate governance. Likewise, there is never only one right answer in the interpretation of the finances of an organisation, for which you are responsible as an executive director.

It is fundamentally important to take the time to understand, consider and challenge all decisions that are made by yourself and the other directors from differing perspectives:

- What is the operational impact of our decisions?
- What is the governance impact of our decisions?
- What is the stakeholder impact of our decisions?

My experience of working with many boards and many directors suggests two gaps are all too often evidenced in the boardroom:

- *Lack of financial literacy* – the ability to look at, read, consider and challenge a set of figures – after all, these figures underpin the liquidity and viability of the company for which each director is responsible.
- *Lack of professional scepticism* – the ability to step back and challenge what is being presented from a perspective which eliminates bias.

The role of an executive director is enjoyable and fulfilling, but it is not for the faint-hearted!

Mark Wearden
MSc FCCA FCIS

Annual general meeting

Introduction

A private company does not need to hold an annual general meeting (AGM) unless the constitution requires this to happen. All procedural matters for general meetings (notice period, voting etc.) will usually form part of the articles of association of the company.

A public company must hold an AGM within six months of its accounting reference date. Where a company's accounting reference period is shortened, the AGM must be held within three months of the giving of the notice to shorten the accounting period. A public company may not need to hold an AGM in any particular calendar year if it has a financial year in excess of 12 months.

The 'ordinary' business of the AGM is:

- to receive the most recent accounts;
- consider the remuneration report (quoted companies only);
- confirm the declaration of a final dividend (where appropriate);
- approve the remuneration of the auditors; and
- re-elect the auditors and retiring directors, if necessary.

Any other business is deemed to be 'special' business. The majority of the following points are therefore applicable directly to public companies with their AGM requirement but may also be of use as reference points to companies who choose to have an AGM.

Director checklist

- Is the AGM being held within the required time scales (e.g. six months of the financial year end for plcs)?
- Is there a final proposed dividend payment which needs AGM approval?
- Does the directors' remuneration report need to be approved at an AGM (this is obligatory for a listed company)?

- Is the appointment and reappointment of directors clear and does it require approval at an AGM?
- Is there a clear distinction between executive directors and NEDs?
- What happens is an executive director is not re-elected by the shareholders?
- Will the board balance continue to remain appropriate and in line with any code, shareholder or stakeholder expectations?

Procedure

- The company secretary will normally handle all matters pertaining to an AGM, but as an ED you need to be satisfied that:
  - the correct notice has been given to members of the company;
  - that the notice of AGM, any proposed resolutions and any required voting (including the use of a proxy) have been prepared and circulated within required timescales;
  - the timing and venue for the AGM is appropriate for the expected attendance, to ensure an appropriate opportunity for challenge and debate if required;
  - all communications are clear and appropriate for maintaining the reputation of the company;
  - as an ED you will be expected to take a lead in the smooth operation of the AGM – you are there with your two hats – operational and governance and need to be clear of the distinction if questions are raised by shareholders.

Notes

- Remember that an AGM is an annual meeting for the owners to maintain their oversight of the control of their investment.
- The procedural requirements for any additional 'general' meetings of shareholders, historically referred to as extraordinary general meetings (EGMs), will be covered in the Companies Act 2006 (CA2006) and/or the Constitution of the company – as with the AGM.

Annual report and accounts

Introduction

All UK limited companies (ltd and plc) are required to submit a report to Companies House and to their shareholders at least annually, underpinned by the financial statements dated at the end of each financial year of the company.

The contents and format of the financial, non-financial and narrative aspects of the report are determined by the size and nature of the company concerned.

The report is signed by a named director of the company on behalf of each director of the company.

Traditionally, such reports have been viewed as a historic report of the directors to the shareholders as at the year-end date. Driven, at least partly by the strategic report expectations within CA2006, reports for all companies except small companies now contain a greater level of strategic projection and commentary from the directors. This combined with enhanced stakeholder awareness, and the speed of media and social media communication, has led to year-end reports being viewed by many as a future-looking as well as historic report. This perspective, and such a reliance, has not yet been tested in law.

Director checklist

- Understand the reporting requirements for the size of company in which you are an executive director (ED), remembering that the report is issued in your name.
- Take part in the organisational leadership which leads to the production of the final annual report and accounts – where there is extensive narrative, who is the compiler and author? The call from shareholders is for a more focused and combined approach to reporting, not just a series of separate reports.
- It is likely that NEDs will place significant responsibility on yourself and your executive colleagues for the writing, compiling and production of the report and accounts.

- As a director, do you have the opportunity to review financial, non-financial and narrative aspects of the report in sufficient time to enable constructive challenge and input if required?
- Ensure that the final version is debated by all directors during a formal minuted board meeting, and the appropriate resolution is approved to put the report and accounts to the members for approval in the AGM.

Requirements

- Small and micro companies under CA2006:
  - minimum financial information of balance sheet at year-end date, with any appropriate notes; and
  - short and formulaic directors' report.
- Medium-sized companies under CA2006:
  - more detailed financial information including an income statement and cashflow statement to supplement the balance sheet;
  - a directors' report;
  - a limited strategic report; and
  - an auditor's report.
- Large private companies under CA2006:
  - detailed financial information;
  - a directors' report;
  - a detailed strategic report, including an increasing range of wider stakeholder and corporate social responsibility (CSR) information; and
  - an auditor's report.
- Larger private companies under CA2006 as enhanced by the Companies (Miscellaneous Reporting) Regulations 2018:
  - all the requirements for 'large' companies; and
  - governance reporting using either the Wates principles or an acceptable alternative on an 'apply or explain' basis.
- Public listed companies:
  - all the requirements for 'large' companies; and
  - governance and other reporting in accordance with the requirements of the Listing Rules, currently the application of the FRC UK Corporate Governance Code 2018 on a 'comply or explain' basis.

Notes

- Always remember that the Companies Act requires the annual report and accounts to be 'consistent with the size and complexity of the business'.

Further information

- The Chartered Governance Institute: guidance note, 'Contents list for the annual report of a UK company'.