



## The 2019 Non-Executive Directors' Association Annual NED Debate *The Debate Report*

The 2019 Non-Executive Directors' Association NED Debate was held at Smith & Williamson in Moorgate, on Tuesday 16 October 2019, in association with Company Matters and sought to consider a variation on the board diversity theme by comparing boards of today with those needed tomorrow.

### Executive Summary

The NED Debate motion **“This House believes tomorrow’s boards must not appoint the NEDs of today”** indicative vote held firm on its support of the motion, but opinion did swing with strong arguments expressed on both sides during the debate, and with lively discussion and interaction from the Floor.

#### The **Proposers** argued:

- Radical change is needed, not more of ‘the same’.
- There are still too many governance failures – current boards are not doing a good job.
- Cognitive diversity must replace ‘groupthink’ in the boardroom.
- The value proposition is currently focused on financial returns while risk profiles are shifting.
- In conclusion, board appointments of the future should be from people who are not serving on boards today – a step change is required.

#### The **Opposers** argued:

- ‘Generation X’ are best placed to deliver the change that is needed.
- Companies must now consider wider stakeholder groups - current boards are up to the challenge.
- NEDs have helped shape some key achievements over the last few years – we need to build on this.
- Let capitalism evolve naturally. Do not force the issue at board-level.
- In conclusion, boards need to maintain a healthy balance of both experience and new thinking.

# The 2019 Non-Executive Directors' Association Annual NED Debate

## The Debate Report

The Debate Motion was:

**"This house believes tomorrow's boards must not appoint the NEDs of today"**

### Creating the Boardroom dynamic

In adopting the debate format to explore this very topical issue it was recognised that there may be a close parallel between a debate and a boardroom. In each situation, there must be respect for the opposing view, but also an atmosphere of constructive challenge after careful listening.

### The Chairman

**Barry Gamble**, an experienced Chairman of debates and of companies.

### The Debaters

Proposing the motion:

- **Professor Heather McGregor, CBE**, Executive Dean, Edinburgh (Heriot Watt) Business School; Chairman, Taylor Bennett; NED, International Game Technology plc; NED, Non-Standard Finance plc; "Mrs Moneypenny" of Financial Times and Sunday Times; Founding member, 30% Club; **seconded by**
- **Neil Kirton**, Managing Director, Kroll Associates UK; Chairman, Warehouse REIT plc; NED, Ingenta plc.

Opposing the motion:

- **Judith Mackenzie**, Partner and Head of Public Equity, Downing LLP; NED, Really Good Food plc; NED Quoted Companies Alliance; **seconded by**
- **Ash Mehta**, CFO Rosslyn Data Technologies plc; NED, Northbridge Industrial Services plc.

**It is important to note that there should be no assumption that the debater's personal views either did or did not coincide with the side of the motion for which they argued.**



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## Background to the Motion

Challenges facing modern NEDs are ever-expanding and include:

- Higher expectations of the role
- Greater time commitment, but not always balanced by the remuneration package on offer
- Increasing regulatory and compliance demands
- Advancing technology, both outside and inside the boardroom
- The need for more engaged corporate citizenship

The third Annual NED Debate sought to explore why Boards still appear to be locked in a syndrome of appointing new members in their own image and the resulting consequences of too much 'groupthink' around the board table.

Equally, with continued examples of corporate failure arising from accounting and other scandals and the potential for companies to face fines for regulatory transgressions, the traditional NED skillsets would appear to be needed as much as ever.

## The Indicative Vote

Before the Debate started Barry Gamble, the Chairman, called for a straw poll of the Motion and a summary of the result is set out below:

The Indicative Vote	
For the Motion:	68%
Against the Motion:	25%
Abstained:	7%

## Proposers of the Motion (*Professor Heather McGregor, CBE & Neil Kirton*)



**The Proposers** summarised their argument into the following points:

1. Radical change is needed
  - Proposal: future boards should consist ONLY of people who have not sat on a board before; this is a radical step.
  - However, without RADICAL change future boards will not be able to manage the broader range of risks organisations face.

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## The Proposers summary (continued)

2. There are still too many governance failures
  - It is not just about shareholder value destruction, it is also jobs, livelihood, supply chains.
  - We are witnessing the potential long-term disruption of our economic wellbeing. Corporate failures and mismanagement by the executive with examples such as Carillion, Patisserie Valerie, Thomas Cook and Woodford Investment Management are hitting the headlines. Indeed, the current focus on Thomas Cook, has posed the basic question of where were the NEDs in challenging the piling up of debt or stress-testing viability positions if there were not enough bookings to maintain positive cashflows?
3. Cognitive diversity must replace 'groupthink'
  - It can be difficult to ask tough questions when you know everyone else sitting around the table really well, especially when you are "all in it together".
  - The success of future boards will be about cognitive diversity. Not gender or ethnicity, but diversity of thought.
  - Looking at any NED role specification – the very first requirement is quite often 'prior plc experience needed'. Why?
  - There is often a lack of knowledge and experience of good boardroom etiquette and best practice
  - It can be difficult to bring about change
    - For example, in 2010 the 30% club started but it only achieved the 30% target 9 years later (objective of 30% of FTSE 350 board members should be female)
    - Females can still look like the men on the boards – 57 years old (the average male member is 59), white, professionally qualified (especially with a financial background)
  - Boards, and chairs in particular, often recruit in their own image - that will not bring cognitive diversity.
  - It is easier and less risky to appoint people you know and hence not rock the boat. Do you really want to fall out with your 'friends' around the table with whom you also socialise?
  - You can seek and place more emphasis on getting reinforcement of your ideas from hearing exactly the same view as your own, rather than seeking positive challenge.
4. The value proposition is currently focused on financial returns
  - Current NEDs have been asked to look at things through the rear-view mirror – growth in dividends and earnings. You might also have a conversation on cost of capital or returns on capital, but that may no longer be enough.
  - There is evidence of some shift in thinking e.g. KKR were hesitating on committing capital to certain investments as they were uncomfortable with how the returns had been generated. Some investee companies had cut costs hard and closed factories, all with severe social consequences. It was the method, not the financial returns, that was the issue.
  - A forward-looking mirror should go beyond the financials.
5. Risk profiles are shifting
  - More contemporary risks, including GDPR, social media influences and their use can focus too heavily on employee wrongdoing, rather than broader cultural issues.
  - What is the cost to the organisation when things go wrong? BA data loss issues cost £160m; Verizon/Yahoo merger problems cost £300m; TalkTalk cyber-attacks led to the CEO losing her job. Beyond that, the cost is reputational.
  - Understanding risk requires a level of insight and awareness that many boards simply do not have in-house.
  - Risk should be represented as a specialist function available to the boardroom.

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- High profile failures often have features in common such as the failure to manage their risk profile and deal with the impact of clear conflicts of interest on the board.
- Risks of association as experienced with the '#metoo' campaign and operational risks within supply chains.
- Schroders research has demonstrated that:
  - Millennials (as the active fund managers of tomorrow) rank ESG [Environmental, Social and Governance] leadership on a par with financials;
  - Stocks with ESG credentials are typically held for two years longer. One private equity executive thought she could expand the exit potential by focusing more on non-financial issues.

## Opposers of the Motion (*Judith Mackenzie & Ash Mehta*)



1. 'Generation X' (demographic cohort: 1965-1985) are best placed to deliver changes in the boardroom that are needed
  - It is the responsibility of boards to appoint future members and today's boards ('Generation X') are best qualified to do so.
  - Past achievements of the older guard have included:
    - Diversity (we have started that journey)
    - Governance and accountability changes (which over the last 5-10 years have been enormous)
  - We are the 'Generation X'. We are the 'responsible custodians' managing the appropriate succession for NEDs of tomorrow. We are not perfect, but we have proved to be 'fit for purpose'. We are both involved and engaged.
  - The corporate landscape is changing with technological, political, economic and, trading changes coming to the fore. Board directors are now more professional in their role, in particular:
    - Not so long-ago UK plc board members were focused primarily on a good claret, nice lunch and golf outings.
    - Today, the 'old boys' network' are a dying breed. More importantly it is their style and approach that no longer fits. 'Generation X' have made that happen and we should be proud of it.

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## The Opposers summary (continued)

2. Companies must now consider their wider stakeholder groups - customers, employees, the community.
  - Imagine hearing boards saying 'people over profits' five years ago.
  - The NED role has changed significantly, and the role today is much stronger than it has ever been.
    - Naturally there are failures, but now NEDs are more accountable and in the spotlight;
    - This generation of NEDs has made 'fat cat' directors intolerable;
    - There are around 5.7 million SMEs in UK, employing 16 million people, contributing £1.9 trillion to UK plc. Around 50% are growing under the stewardship of effective NEDs;
    - Many NEDs are significantly influencing change for the better, but rarely get a mention.
3. There have been some key achievements in governance and board activity over the last few years. In particular:
  - Governance – the Quoted Companies Alliance ('QCA') Corporate Governance Code has been adopted over the past 18 months by 90+% of AIM companies which has brought significantly more disclosure and trust through better communication.
  - Diversity – one third of boards are first time appointees (of which 38% are women) this is a massive change.
  - Accountability – With increased fines and censures regulators now have teeth.
  - Social responsibility – the Environment, Social and Governance ('ESG') perspective is now firmly on corporate agenda and part of regular reporting.

Any NED not embracing the above is not doing their job. The day of the 'gifted amateur' has gone.
4. Let capitalism evolve naturally
  - Capitalism supports the survival of the fittest.
  - We should allow companies to fail – the system needs that.
  - It is important to remember that the UK effectively 'invented' modern capitalism, corporate failures AND corporate governance. For example:
    - The South Sea Company had some governance and needed a clergyman on the board (the CSR of the time) as well as a governor – the precursor to a non-executive chair of today.
    - The Cadbury Code provided more stringent guidelines but failures, such as Barings and others, still happen despite the developments.
5. Enough is enough?
  - Whilst changes of last 30 years have been great, perhaps it is time to say that "enough is enough".
  - Further regulation will have an impact on the whole capitalist system and continue to reflect one of our growth industries which has focused on more risk, compliance and regulation.
    - Hundreds and thousands of jobs have been created to meet compliance demands
    - As the Financial Reporting Council ('FRC') morphs into the Audit, Reporting and Governance Authority ('ARGA') – even more jobs will be created
    - Rules tend to be fuelled by people not serving any social or economic purpose
  - If we increase corporate governance requirements, will we see the level of expectation in NEDs increasing even more into the compliance domain such that they become the 'enforcer' rather than a 'critical friend' on the board.

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## Some key points from the Floor of the House



### Boards need to listen harder to the stakeholders' voice

- Very few chairmen are skilled enough to bring external voices into the boardroom (Customers, employees, other stakeholders within the ESG framework).
- People tend to operate in their own comfort zone.
- We need to address the narrow-minded focus that is often just on the financial areas.
- The use of newly formed workforce advisory panels should be welcomed as another example of good corporate governance and an opportunity to bring fresh views into the boardroom. Young people in the company in particular do not just look at the financial return but seek to look at the bigger picture.

### Executives need to be empowered to make decisions.

- NEDs should be helping them to do this.
- In trying to satisfy everybody messages can be too diluted.
- One size does not fit all, a company the size of British Gas is very different to a growing SME.

### Opportunity for a 'half-way house'.

- We need to maintain a balance of experience on the board.
- This should be combined with a broader mandate to bring in fresh faces.
- Board members also need to maintain independence from each other to avoid conflicts of interest.
- In the boardroom there is a tendency for the executives to filter information based on what they want the NEDs to see or to swamp them with too much detail.

Some NED candidates are considered 'too diverse' if they have no specific sector experience. By contrast many NEDs can have multiple board positions, including as a CEO – but how can they discharge their duties effectively?

### There needs to be better definition of what value NEDs can give?

- Quite often it comes down to two things: Courage and Integrity.
- The problem is that not all NEDs have the courage of their convictions and do not make a stand, seeking instead to maintain the status quo and not rock the boat.

### Boards and NEDs often just pay 'lip service' to some of the key agenda items.

- ESG - very few ESG portfolios seem to work - otherwise they would be self-fulfilling.
- Risk - very few people actually understand the essential concepts.

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## Some key points from the Floor of the House (continued)

The term 'corporate governance' has been used thirteen times in the debate and this whole issue would seem to be about the governance, culture and diversity agenda. Once you have a good framework in place, these things tend to work themselves out.

Good boards have certain characteristics:

- they are led by an effective chair;
- they undertake board effectiveness reviews; and
- they promote current NEDs as fast as possible.

The radical move is to change the leader with new NEDs seeking the role as chair.

The overriding driver going forward is S172 Companies Act as directors must show evidence of how they have acted in their fiduciary duty to look after the long-term interests of the company.

- Boards must be led by a capable chair supported by good NEDs who must be able to challenge.
- The Chair is the most important person in orchestrating boardroom activity.
- The Chair's ability to be a good listener is arguably more important than sector experience, particularly in disseminating and leading culture at board-level.

More interest is being expressed in the employee's view.

- You should not be "throwing out the baby with the bathwater" – any revolution should be controlled.
- Consideration should be given to the development of the whole board including recruiting the right people and having a clear succession plan in place.

Board representation of the corporate landscape in which it operates.

- Boards need to better reflect the stakeholder base of investors, staff, supply chain, customers, local society and the environment.
- The problem can be holding all of these stakeholders in balance.

Technology represents a major skills gap for most boards.

- We are in the middle of major phase of technological disruption in most businesses.
- We need board members with these skills and there does not seem to be a pipeline of candidates, indeed most boards do not appear to be aware how big an issue this is.

The world has gone mad!

- To understand the future, we need an extrapolation of the past. Examples of new business models that do not seem to make sense include 'WeWork':
  - The business takes on long-term leases then sells-on as short-term leases;
  - It is run by young people who do not seem to know what they are doing. [The \$40bn valuation has subsequently dropped to an implied \$7bn with the Softbank buyout]
- The conclusion seems to be that the current risk management models do not work.

Mentoring - needs an experienced person to be involved for it to be effective for on-boarding new NEDs.

Provocation - many of the problems described today cannot always be solved by who actually sits on boards, but rather by how the boards operate, especially in areas such as communication and stakeholder engagement.

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Summing up from Barry Gamble,  
*The Debate Chairman*

## Conclusions

### Proposers

- Radical change is needed, do not accept the status quo.
- There is a lot of talk about the younger perspective, but it is how we can bring new ideas and new ways of thinking into the boardroom
- Cognitive diversity and rebel voices are needed.
- The value proposition can be too focused on financial returns.
- New risk profiles need to support achieving better competitive advantage
- In conclusion, Board appointments of the future should be from people who are not serving on the boards of today.

### Opposers

- Generation X are best placed to deliver the change that is needed.
- Companies must now consider wider stakeholder groups, as well as broader social and environmental matters.
- Boards are evolving and we know what is good and bad, the direction of travel is clear and should not be diverted.
- NEDs have delivered some key achievements over the last few years.
- Chairs are taking responsibility for change.
- Enough is enough!... do not throw things out for the sake of it.
- In conclusion, we need boards that balance both the old and new, it is not diversity at all cost.

## The Final Vote

After the Debate Barry Gamble called for a new poll of the Motion and a summary of the result, including the initial Indicative Vote, is set out below. **Although the Motion was carried opinion did swing with strong arguments expressed on both sides during the debate, and with lively discussion and interaction from the Floor.**

The Indicative Vote		The Final Vote	
For the Motion:	68%	For the Motion:	69%
Against the Motion:	25%	Against the Motion:	27%
Abstained:	7%	Abstained:	4%

# The 2019 Non-Executive Directors' Association Annual NED Debate



**The Chairman, Debating Teams, Host and Sponsors. From left to right:**  
**Tracey Brady** (*Debate Sponsor - Company Matters*), **Neil Kirton & Heather McGregor** (*The Proposers*),  
**Barry Gamble** (*Debate Chairman*), **Judith Mackenzie & Ash Mehta** (*The Opposers*)  
**Guy Rigby** (*Debate Host - Smith & Williamson*).



**NEDA vote of thanks from Louis Cooper**  
(*NEDA CEO*)

The 2020 NED Debate will be held next autumn, further details will be released in due course.



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