

Company
Matters.



ISSUE 1

IN CONVERSATION WITH...

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Welcome to 'In Conversation With....'. In this inaugural issue Michael Conway, Associate Director, Company Matters, Link Group's Company Secretarial and governance advice business met with his guests to discuss the role of the Company Secretary from a Non-Executive Director's (NED's) perspective. Michael was joined by Louis Cooper, CEO of the Non-executive Directors Association (NEDA) and Liz McMeikan, Senior Independent Director and Remuneration Committee Chair at Unite Group plc, Remuneration Committee Chair at McBride and ESG Committee Chair at Dalata Hotel Group plc. An edited version of their conversation follows. The full conversation is available as a podcast on our website: www.companymatters.co.uk/insights

Michael: There is general feedback from our clients that they are delighted to return to physical meetings. What is your view Liz, do you think there is a place for virtual meetings moving forward?

Liz: Everybody was delighted to get back together; physical meetings bring the ability to read your colleagues far better. You can see the mood music far better, you have the breaks to catch up with people in a way you simply can't do on a virtual meeting. It brings people together and we are naturally sociable people, so inevitably there was a real euphoria about getting together. Virtual meetings are very interesting. I think there's quite a push, for example, for committee meetings to be held virtually, particularly if not held on the same day as the Board meeting. Previously, I was a great exponent of that but if you are the only one who is virtual it is very difficult. I think either everybody should be virtual,

or everyone is in attendance. It's very difficult to chair or participate in a hybrid meeting. Those in the room tend to forget those on the screen and in turn those on the screen feel left out. I have had COVID and joined a two-day strategy meeting where I was the only virtual participant. I look back and think that was an error as I really couldn't participate properly. So, I think there's a place for them, but I think you must be careful how they are managed. There are those who now say hybrid meetings only work when everybody, even those in the room, have a screen so those at a distance can see the speaker and their expressions.

Michael: Our experience is that the technology isn't good enough to allow for a hybrid Board meeting, certainly as a company secretary, if you're not in the room it's virtually impossible to follow the conversation and understand who is talking. You quite often hear spoons in coffee cups being stirred rather than the conversation. So, I think, at the moment, it is an all or nothing approach. But do you think we'll see some Board meetings being held virtually as a matter of course, particularly due to periods of bad weather people or people have got a long way to travel?

Liz: Well, this week for example, with the rail strikes, we have gone to a completely virtual Board and Committee meeting. I think your point around travel is well made. One Board I sit on has a very international flavour and they have decided they are going to have a number of physical meetings but about a third of them will be exclusively virtual and that is for cost savings. They are the sort of meetings you are not discussing strategy; meetings where routine matters and performance measures etc. might be looked at. I do think there is a place for virtual meetings, but it must be well managed and one's ability to chair those meetings is a different art. People who are brilliant at chairing a physical meeting don't necessarily chair a virtual meeting as well. Some do but not all.

Michael: Thank you. I am going to move onto the provision of information to Directors, a subject close to the heart of every Company Secretary. It is a fairly consistent theme that we see come up in Board Evaluations. Is there too much information, too little, do you get it

on time? Louis, perhaps we can have your perspective first?

Louis: I think some of this ties into the topic of virtual meetings too. What we have seen recently is that the information flow is different in terms of the volume of information being trimmed. In the past, a lot of people had complained about the volume of information for consideration before, during and after meetings. I think that is changing a bit, but the simple adage of high quality information leads to high quality decision making still bodes well. And I think there needs to be some degree of trust that the Executive will pull together the right information at the right time to enable to Board to come to that decision making process.

It's also a two-way communication. There is a lot of information that comes up into the Board but there also needs to be good information coming back out of the process. A lot of Boards just focus on the provision of information to them but don't think of the information that comes out of it. Where Boards surprise me is where we are still hearing people say there is too much information and overload. The simple question there is, why don't you do something about that, push back and make sure you have the appropriate information to grow from? And I think the Chair and the Company Secretary in particular are the key people who should orchestrate the provision of information and should be able to put together a pack that is fit for purpose. So, you do need to understand what is required and not just produce volume for the sake of volume but think about how you go about your review of the situation that has been presented and make sure you are able to make the right decisions. Also, Key is making sure the signposting within the presented information is clear and then followed up. The minutes should be tied back into the Board packs and have clear linkage between the two. I think it is important to make sure there is no disconnect, it is a clear element on how Board operate. If anything goes wrong the first call is for the minutes but also the paperwork that the Board went through to get to the decisions that were being made. The feedback from the banking crisis was that there clearly was a disconnect and the information flows were not working effectively.

Michael: Certainly, we find regulated businesses, businesses in the financial services sector tend to have a lot more paper in their Board packs than they used to and that's an increasing trend. I think part of the job of the Company Secretary is to make sure it is very clear what the Board needs to do with each paper. For instance, is the matter for approval or for information? We often find the quality of signposting is not always clear. Liz, what's your perspective on this?

Liz: I think Louis has made some really good points. I am not in the Financial Services sector so I don't have that overload that you have just described. I have four things I would highlight here. One is timeliness of the papers. That matters almost more than anything. Getting the papers too close to the meeting gives you no time to reflect on them and digest them and that is absolutely the most important thing. Too much information, I would suggest it needs to be rearranged into the appendices and the work going into the body of the paper you would expect the Board to read. Then if they want to read more they can do so separately. Too little information I think isn't good for trust, Louis mentioned trust and I think that is key. Too little information and you begin to wonder why it would be you are not being fed sufficient information. Then, the provision of minutes, the timing is critical. Receiving minutes weeks, even sometimes months later, does not allow a decent review of the minutes. Particularly if things are not going right those minutes are critical. So, timeliness, level of information and trust would be my key highlights.

Michael: Certainly, Company Matters has strict guidelines regarding minutes and making sure everyone has access to action points within days following the meeting as that is key. I think in terms of timeliness of information every Company Secretary that you speak to will have had their careers plagued by having to chase the papers. One way of dealing with this is for Directors to make the point about when they expect to receive papers at Board meetings. Often, no matter how many times the Company Secretary tells the Executives it is important to have these papers out on time they really need to hear it from the Directors. That can affect the change.

One thing that you both mentioned was the word trust. Thinking about that and the integrity of the information you receive, is that an area of challenge for you? Do you trust the information you get? Obviously, it will vary from Board to Board but generally.

Liz: Generally speaking, yes. I would look to work for a business where trust and inclusiveness are part of the Board culture. You get a feeling of the culture of a Board and the trust that engenders. I have worked on Boards where trust has not been at the level it should be and that is when things start to break down. Trust is a fundamental barometer of where the business and the Board are. Its critical. I would say 95% of the time the trust is there. The Board effectiveness evaluation is important in raising any issues and you have the Chair and the Senior Independent Director so there are various mechanisms if there are issues around trust. But I would say in most businesses that are performing reasonably or very well it is not an issue. It tends to be in businesses where there is a crisis of some description. Not always but sometimes.

Louis: A lot of this comes back to the three key roles in terms of the Chair who runs the Board, the CEO who runs the organisation day-to-day, and should be marshalling the papers that go into the Board, and the Company Secretary in terms of pulling everything together and working with the CEO and Chair to make sure the appropriate papers are there. Very much as Liz said, it's important to make sure the timeline is followed through. I also think Directors, over the last couple of years with Section 172 requirements, are very much looking at the ability to focus on the success of the company and part of that should be how they go about decision making and making sure the right information is made available for those key decisions.

So, I think that is a big focus in terms of the Directors and their duties being followed through. It is very much coming together as a team, so you are working together and trusting the other members of the team. I have just been working with a Board where we were talking about development of the Board and one thing they had not really focused on was teamwork. COVID hasn't helped in terms of how Boards have been coming together and working together. It is

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developing that culture that really helps to get everyone on the same page. Also, on the point made in terms of virtual meetings, the ability to go into the office and meet and interact with Executives and other people working day-to-day in the organisation is critical. That has really been missed over the last couple of years and can help to make sure that NEDs are engaged with the Executive team. Especially if they want more information.

Michael: Thank you. You mentioned Section 172, if you consider the content of Board papers, I think it is important that Directors can take some comfort from the Board papers that their section 172 duties, generally, have been addressed and covered.

Liz, you mentioned the value of effective Board Evaluation. If we turn to that, what do you see the role of the Company Secretary being in that process?

Liz: The Company Secretary is critically important. I would say second only to the Chair. They often need to pivot as they have other roles, if not outsourced, such as legal counsel. Discretion and confidentiality are key. I see their role as being there from the very genesis of the Board effectiveness decision. Is it going to be internal or external, if it is external who is the provider going to be? With the Chair they determine who they are going to use. As the information starts to flow back, they will see very confidential information that will be about the Chair, the Board, the Committees etc. and it needs to be handled discreetly. They will have a role on how it is presented back to the Board and the follow up on that. I see hugely valuable Board effectiveness processes take place and often the value is in the dissemination of the information and agreeing and managing an action plan. I see the Company Secretary as pivotal.

Michael: Certainly, we often see lots of good things said at a meeting and then it is put on the back burner for another year. Louis, what is your point of view?

Louis: There is not an approach you can just take off the shelf, it needs to be tailored to your requirements, and that is when the Company Secretary can really help. In terms of what will

work for that particular Board. As Liz outlined, it is working with the Chair to get the best approach and to make sure that you just don't have a questionnaire that you use for several years, rolling out the same process. You need to be thinking about what works for the organisation and you have different options. It tends to start with something internal and then moves to external, plus bring someone in to look at what you have been doing, or a full external process. The Company Secretary can help with understanding what will work.

Sometimes there also needs to be a bit of a selling job to understand the need to undertake this kind of exercise. As Liz said it can be quite confidential data and information you are dealing with, plus you are dealing with egos and people at a senior level, so you need to manage that process carefully. The Company Secretary will know the culture and the people involved and will know how best to pitch things to take them forward. We are doing work in this area and asking the question: "Do you need an effectiveness review or a performance review?", because I think those words are used and the subtle difference between the concepts are not always understood.

Effectiveness is the mechanics of how the Board operates and is used as a term by the regulators but then they also slip into using Board performance. If you are doing a Board performance review you do need to set objectives for individuals on the Board, something they can be measured against. If you go into a lot of Boards and ask to see their objectives, you may get a bit of a blank look. The different approaches need to be considered to better understand what you want to achieve out of the process.

You are right, you do need to make sure it is followed through. We have just been working with a Board who see this as a steppingstone to understand what they need in terms of development. It also leads you to think about succession plans and training and education needs. It is important to set the parameters and understand the outcomes you want to get out of this exercise. So, the Company Secretary is key to the actual scope set and the outputs.



Michael: This is an area where, several years ago, there was a lot of resistance to the whole thing but over the last few years, probably since the introduction of the 2018 Corporate Governance code there has been a broad acceptance of the value of it. It is an area that will continue to develop.

I don't think any conversation these days is complete without discussing Environmental, Social and Governance reporting (ESG). Louis do you think Directors, in particular NEDs, are equipped to deal with ESG, climate change in particular?

Louis: It certainly is a hot topic, and it is used in a way now that people will be thinking of the 'E' rather than the 'S' and 'G'. It is important to understand how it breaks down into the different elements. I think the 'G' has always been the domain of the NEDs, as the guardian of governance but also the Company Secretary in terms of the actual mechanics. The 'S' has been the domain of the HR and people teams. I think the 'E' bit has been the key driver recently and that is where people are struggling in understanding what their responsibility is and having the right plans in place, the right understanding of what it means day-to-day for the company.

That is where a lot of Directors, NEDs in particular, feel that they really need help understand the current position of the company and where they need to be in the future. I just read this morning that there is a concern that a lot of 'help' out there is vague and meaningless if you are not in, say, an Oil and Gas company focusing on the environment every day but in an office where it is not seen to be an immediate key issue. A lot of the information so far has been about data, both collecting and reporting data. But it should come back to what it means from a strategic point of view, what are the risks that are faced especially the threats and opportunities.

So, if it is finding its way into those areas, I think the Boards are more engaged. Some Boards are moving to setting up ESG sub-committees of the Boards. The important thing is to be careful that you don't start another cottage industry on the side. Do include it in your main Board activities and overall strategy.

It's about having a clear message as to what you are doing in that area. Going back to the Company Secretary, they can help with deciphering what it means to the organisation and differentiating the wood from the trees to establish a plan of action. Making sure the company is on the front foot and understands the scale and materiality.

Michael: Liz, Louis mentioned that companies are setting up ESG committees and you chair one, so really interested to hear your perspective. Also, what is the future of ESG against the current economic background and a possible recession?

Liz: I do Chair an ESG committee. Unlike other committees there is no prescribed format, and I am confident that different ESG committees have different hues from one another. On the one I chair, the Company Secretary has been heavily involved in setting it up. Particularly around the long process of Terms of Reference. An important process to get right, it has taken 12-15 months to finalise. Developing over time, looking at what's working, what's not, and adjusting. So, the Company Secretary has had an important role there and in determining the agenda. My way of working means I will liaise often with the Company Secretary on agendas.

Another aspect where a Company Secretary can really help is where decisions become more data driven. Often data analysis will take place in the finance function even where it is not strictly financial data, but it will be audited, very soon, and will need to be verified, it's that joined up thinking. Even where there is a Health and Safety Committee, how do they dovetail with the ESG committee? There is a read across in some companies, also in remuneration terms, as more and more companies are targeting their executive with ESG data. They are a constant and integral in making sure the thinking is joined up and works.

In terms of how finances effect ESG, many companies now have started to render the sustainability element as completely integral to their overall strategy. Times are difficult with high levels of inflation, but I don't think we have seen that play out yet. Certainly not in terms of people saying we can't afford to do that now. Obviously



ensuring value for money is critical at every stage of the game. In terms of the 'Social' element, I see that playing out more obviously in sectors such as hospitality where getting people to perform vacant roles is extremely difficult. Almost without knowing it the social element has had to become the key focus.

I think a lot of companies do some wonderful things but are not necessarily good at communicating them to all the stakeholders. But the 'S' I think is having the opposite impact, it's so difficult to find people to work in hospitality or public facing entities, businesses have had to be more focused on how to attract good people and how to retain them when they do. It is early days on the sustainability point. I think it will be incredibly disappointing if people walk away from the 'E' as we have targets that are vitally important to change in terms of climate change and we need to be ingenious in how we meet them. The 'S' I think is being focused on more, to a degree, because of the difficult economic times that we face.

Michael: Thank you Liz. You make an interesting point in making sure the work of the Boards and Committees is integrated. I suppose that has been a requirement for many years, but I am sure the ESG focus will sharpen that requirement.

Looking forward and thinking about the increase in regulation, we have recently seen the government response to the consultation on Audit and Corporate Governance Reform. Any changes are unlikely to be introduced before 2024 and they should be big, wide-ranging changes, certainly increasing the work of NEDs, the audit committee and, inevitably, the work of the Company Secretary. Louis, do you think it will impact the number of people wanting to be NEDs going forward? How can they prepare themselves for this?

Louis: That's a good point, as you say it has still to be fully thought through, with the response only being published a couple of weeks ago and being very detailed. We, as NEDA run several training courses for NEDs and we haven't seen real change in the numbers so far, in fact, if anything we have seen an increase. People have been going through the pandemic, thinking about their future and their work-life balance and there have

been a number of people looking to take on new roles. You are right though, in the terms of the changes coming down the track, it's getting difficult to really understand this area as there is so much there. The response to the consultation, has shown that there is a lot of detail to work through.

With the new regulators taking over, the Audit, Reporting and Governance Authority (ARGA), they are really going to be looking more closely at how companies operate in terms of Directors role, corporate reporting, some of the committee activities and obviously that moves into the Audit side. We feel, as an organisation, that Boards generally need to take more ownership of their CPD to make sure they are up to speed with a lot of this information and often there is no one really tasked with that area. I think it is a good if the Company Secretary supports the Board, in terms of individual development and team development. Making sure that the Directors are fit for purpose and fully understand the requirements. I know this is something a lot of good Company Secretaries already do, in terms of making sure their Boards are up to date. Providing updates and training but it is so diverse there is no central point you can go to because it is coming from all directions. It is important Directors take control of their own development. Some of the new reporting coming though is around resilience and also, the audit and assurance policy requirements – how you report this information and how you put it across is going to be important.

Michael: Certainly, Directors do have a responsibility to keep themselves up to date and understand their regulatory responsibilities. Company Secretaries should be, if they are not already, facilitating that process. Liz, from your perspective is there more Company Secretaries could do to help here?

Liz: I have to say that my experience has been very good in terms of Company Secretaries helping on Board training. Increasingly so of late. One Board dedicates an entire day to training, and all the Board is invited to give input to the Company Secretary who leads that day and finds speakers and brings the whole thing together. Other Boards, similarly, maybe on more technical issues, the Company Secretary will bring

someone in. It might be at the end of a meeting and not with a whole day dedicated. It might be half a day. There is a real role to be played there, especially given the discussion which has just taken place around what will be significant changes to roles and responsibilities. I think a Company Secretary can really help distil that and point the NEDs in the right way. I agree it is the responsibility of each Director to make sure they are up to date. If you are a Remuneration Committee chair, for example, which I am, I see it as my responsibility to keep up to date, to know what is going on.

The Big 4 do fantastic NED training opportunities, if you are talking ESG, something like Chapter Zero has fantastic opportunities to understand more about what is going on. I have even seen recently a NED join a Board where it was part of their service agreement, they undertook that they would regularly keep themselves update. So, I think it is a balance between the role of the Company Secretary and of the individual NED. But where the training impacts all Board members it can be hugely beneficial to go through it together. You get twice the value through your own learning and understanding the learnings of others.

Michael: And, of course, if the Company Secretary is part of that process the training will be tailored and focused on what that Board needs and requires. Making it important that they are involved. As we wind up are there any final comments on this?

Liz: One of the things, that may sound prosaic, is management of time. We have talked about timeliness of Board papers and draft minutes being issued, now timeliness of the Board calendar. It must be an absolute nightmare to manage but having those in the diary in a regular rhythm, even two years ahead, reminding the Board regularly, possibly as an appendix at the end of each meeting, is hugely valuable. That management of time can be very frustrating as a NED if they have not been thought through enough in the first place.

Looking at where there are big decisions being made by Boards, involvement of the Company Secretary around the right order in which things are done. Signposting to the Board and ensuring

the right papers and minutes are all there well in advance. So, for me, my plea would be around timeliness.

Michael: That is really interesting. Those are the types of things that a good Company Secretary would say are very important as well. Louis?

Louis: I think a Company Secretary can make sure all these things happen. We have touched on a whole range of topics and key areas. The Company Secretary can make sure that Board evaluations, board meeting papers, succession plans, relevant to the company. Making sure the purpose of the organisation ties into the overall governance model. Also, helping at each end of the process in terms of induction and bringing people onto the Board itself. It should be the Chair's responsibility, but the Chair can work with the Company Secretary to make sure people are inducted properly and there could be an element of mentoring, helping individuals to slot in with the Board and working out how the Board ticks. It is a pivotal role. One recent example we have seen is where, a Board felt they had to move the person who was the Company Secretary to more of a Board Secretary role in terms of style and the way they operated. It was quite interesting to see that differential in terms of how the role may be interpreted and the way they interact with Board members. So, it's about embracing and navigating change.

Michael: certainly, among very large companies we see this concept of a Board Secretary or Board dedicated function. Perhaps that is something we will see develop more in the future.
Thank you both so much for your time. It's been really interesting talking to you outside of the Boardroom and hearing your views.

You get twice
the value
through
your own
learning and
understanding
the learnings
of others

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