

FINANCIAL TIMES
NON-EXECUTIVE
DIRECTORS'
CLUB



**Non – Executive Director [NED] Breakfast,
University of Gibraltar, 2ND June, 2017**

Murray Steele, JJ Pisharello, Steve Playford

In association with



What is a
Non – Executive
Director ?

A Multi-Faceted Paragon with the Interpersonal skills of a Saint

Experienced professional required for demanding role in small but influential team. Although the role is part-time (up to 18 days a year) there is scope to make a significant contribution to a multi-million pound operation. Commensurate with this, the successful candidate will need to be fully versed in stakeholder issues and may be required to fall on his or her sword as appropriate.

To be successful, the candidate must have an extensive working knowledge of corporate finance, business planning, financial analysis, auditing, regulation and compliance, human resources, remuneration policy, organisational theory and change management.

On a personal level, he or she will be an experienced diplomat, negotiator, lateral thinker, communicator, trouble-shooter, and will have the drive and energy to ensure successful outcomes.

Pay and benefits negligible. Risks potentially enormous.



Technical Aspects of being an Effective NED

Murray Steele

In association with



Directors' Duties/Legal Responsibilities

To whom do NED's
owe their first care
of duty?

Directors' Duties/Legal Responsibilities

- Promoting the success of the **company**
 - for the benefit of the **members** as a whole
 - having regard to:
 - long-term consequences
 - employee interests
 - suppliers, customers and others
 - community and environment
 - reputation
 - need to act fairly between members



Directors' Duties/Legal Responsibilities

What's the difference in legal responsibilities between an Executive Director and a Non – Executive Director?

NONE

Directors' Duties

- Proper purpose
- Independent judgment
- Care skill and diligence
 - what is expected of any director (objective)
 - what is expected of you (subjective)

Corporate Governance – a Growth Industry



What is Corporate Governance?

“...the system by which companies are **directed and controlled**. **Boards of directors** are responsible for the governance of their companies. The **shareholders’ role** in governance is to appoint the directors and the auditors and to satisfy themselves that an appropriate governance structure is in place. The responsibilities of the board include setting the company’s strategic aims, providing the leadership to put them into effect, supervising the management of the business and reporting to shareholders on their stewardship. The board’s actions are subject to laws, regulations and the shareholders in general meeting.”

Cadbury Committee, 1992

“We are laying out the case for change, and putting forward a range of options to improve the situation. I want the Government to have an open discussion with businesses, investors, and the public about what needs to be done. This is an important task, and one where both the Government and big business must rise to the challenge of restoring faith in what they do, and in the power of the market economy to deliver growth, opportunity and choice for all.”

*Theresa May, Corporate Governance Reform , Green Paper
Issued by the BEIS, November 2016*

The Role of the Board

- The board is collectively responsible for promoting the success of the company by directing and supervising the company's affairs.
- The board's role is to provide entrepreneurial leadership of the company within a framework of prudent and effective controls which enable risk to be assessed and managed.
- The board should set the company's strategic aims, ensure that the necessary financial and human resources are in place for the company to meet its objectives, and review management performance.
- The board should set the company's values and standards and ensure that its obligations to its shareholders and others are understood and met.

Role of the Non-Executive Director

Strategy: NED's should constructively challenge and contribute to the development of strategy.

Performance: NED's should scrutinise the performance of management in meeting agreed goals and objectives and monitor the reporting of performance.

Risk: NED's should satisfy themselves that financial information is accurate and that financial controls and systems of risk management are robust and defensible.

People: NED's are responsible for determining appropriate levels of remuneration of executive directors and have a prime role in appointing, and where necessary removing, senior management and in succession planning.



Gibraltar context for being an NED/The role of the Audit Committee

JJ Pisharello, EY Gibraltar, June 2017

In association with



The Audit Committee

The spotlight on audit committees has increased over the last few years as a result of regulation and increased scrutiny and transparency.

Key requirements:

- Independence
- Sector expertise
- Competence in accounting or auditing



The better the question. The better the answer.
The better the world works.

The Board

Main principles of accountability

Present a fair, balanced and understandable assessment of the company's position and prospects.

Maintain sound risk management and internal control systems and determine the nature and extent of the principal risks it is willing to take in order to achieve its strategic objectives.

Establish formal and transparent arrangements for applying corporate governance and maintaining an appropriate relationship with the company's auditors.

The role of the Audit Committee

The Board to decide...

Monitor the integrity of the financial statements, reviewing significant financial reporting judgements

Review the internal financial control and risk management systems including effectiveness of internal audit (where applicable)

Oversee the relationship with the external auditor and report to the Board on how it has discharged its responsibilities

Audit Committee's and "PIEs"

Section 40 (1) Financial Services (Auditors) Act 2009

Either:

- ▶ a stand-alone committee; or
- ▶ a committee of its administrative body or supervisory body;

Comprised of:

- ▶ (i) non-executive members of the administrative body;
- ▶ (ii) members of the supervisory body; and
- ▶ (iii) members appointed by a general meeting.

Competence :

- ▶ At least one member – competence in accounting or auditing

Requirements of an Audit Committee

MONITOR the:

- ▶ financial reporting process and submit recommendations or proposals to ensure its integrity.
- ▶ effectiveness of the internal quality control and risk management systems, including the internal audit function.
- ▶ audit process, including any findings and conclusions arising.
- ▶ independence of the auditor and audit firm, in particular, regarding the provision of any non-audit services.

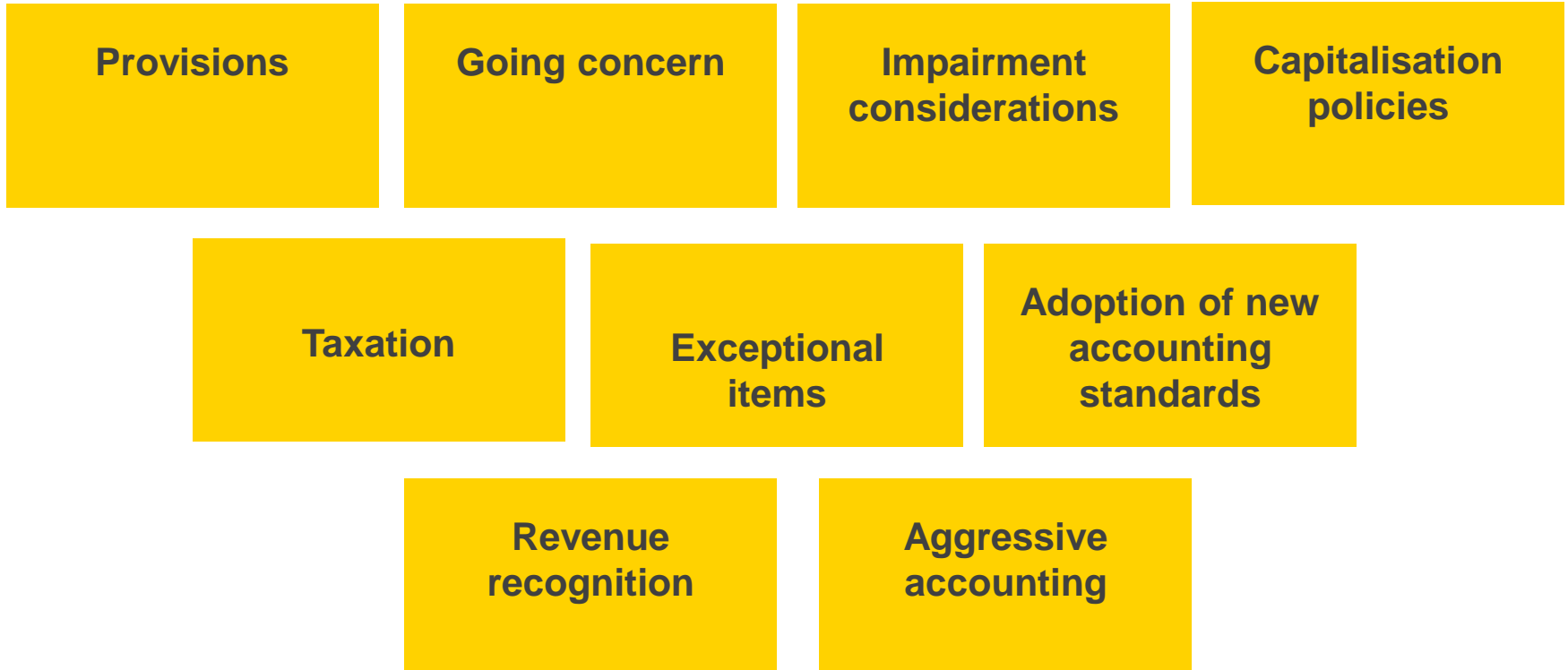
REPORT on:

- ▶ the outcome of the statutory audit and the role of the audit committee.
- ▶ how the audit contributed to the integrity of financial reporting.
- ▶ the procedure for selecting the audit firm to be appointed and recommended.

Source: Section 40(8) Financial Services (Auditors) Act 2009

Integrity of the Financial Statements

Areas of focus and debate



Relationship with the External Auditor

- Appointment, reappointment and removal of external auditors.
- Approval of auditor remuneration.
- Review and monitor the external auditor's independence and objectivity.
- Review the effectiveness of the audit process.
- Develop and implement policy on the provision of non-audit services.

Interaction with the External Auditor

Annual audit cycle:

- ▶ **Audit planning:**

- ▶ Overall work plan, planned levels of materiality, proposed resources to execute the audit plan.

- ▶ **Interim and full year reporting:**

- ▶ Major issues that arose during the audit, both resolved and unresolved.
- ▶ Key accounting and auditing judgements.
- ▶ Review levels of errors identified.
- ▶ Informal meetings.

- ▶ **As required:**

- ▶ As part of NEDs briefing on joining the board.

Audit rotation - PIEs

- ▶ Audit firms
 - ▶ Initial maximum duration – 10 years
 - ▶ May be extended up to a total of:
 - ▶ 20 years – if public tender process undertaken
 - ▶ 24 years – if joint audit arrangement

- ▶ Audit Partners
 - ▶ Rotation after a maximum of 7 years (cooling off period of 3 years)

- ▶ Transition rules apply

Non-audit services (NAS) - PIEs

Prohibited NAS

**Management/
decision making**

**Bookkeeping/
Preparing FS**

Payroll

**Designing and
implementing
internal control
or risk**

**Valuation
services**

Internal audit

Tax Services
(if direct and material
effect on financial
statements)

Non-audit services (NAS) - PIEs

Permissible NAS

- ▶ Subject to assessment of independence and approval of audit committee.
- ▶ A cap for permissible NAS – 70% of average audit fees of last 3 years.

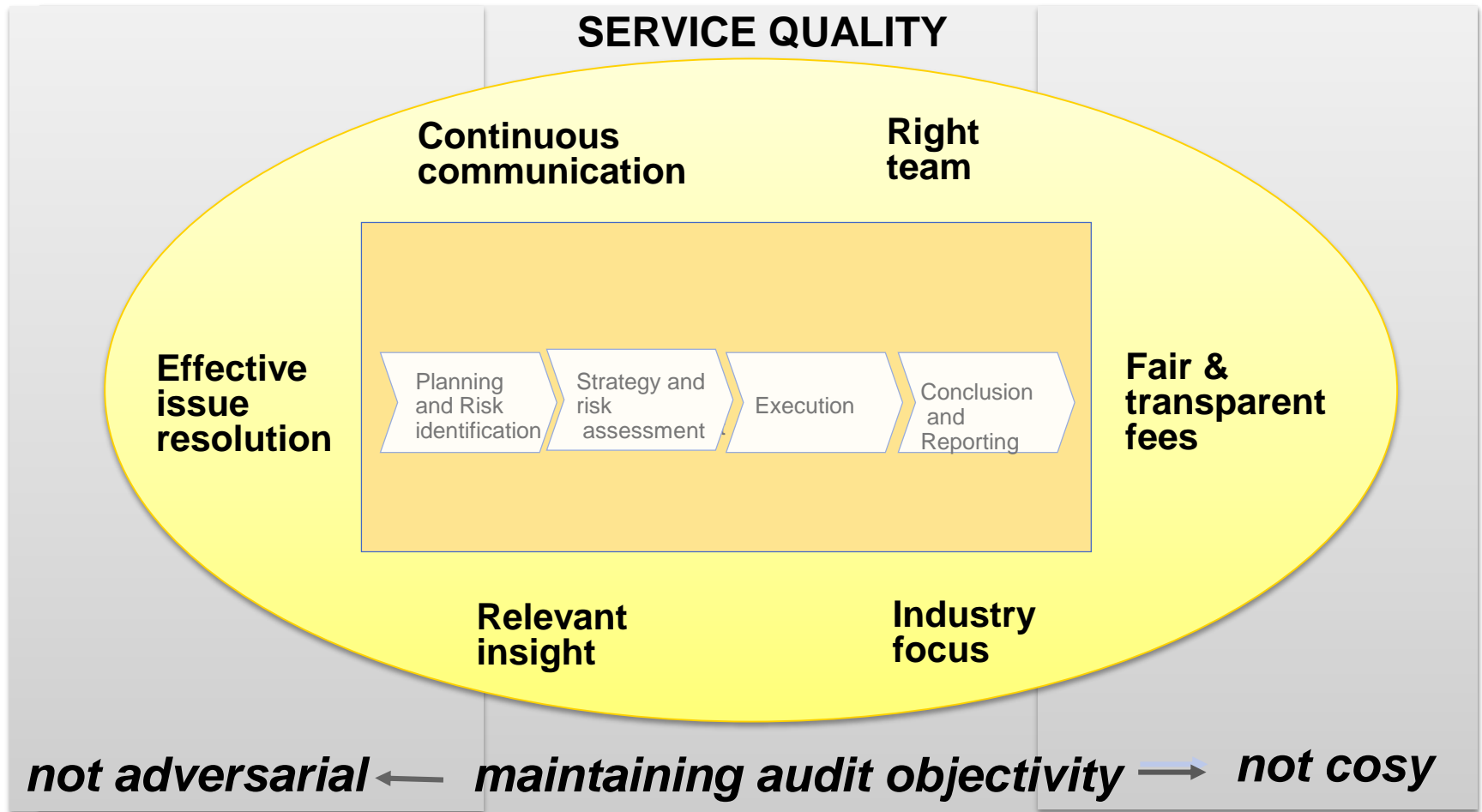
Report to the Board on how it has discharged its responsibilities

The significant issues considered in relation to the financial statements and how these were addressed.

Assessment of the effectiveness of the external audit process and recommendation on the appointment or reappointment of the external auditor.

Any other issues which the board has requested the committee's opinion; e.g. the basis for the FS conclusion that the annual report is fair, balanced and understandable when viewed as a whole.

What to expect from your auditor





Behavioural Aspects of being an Effective NED

Murray Steele

In association with



Effective Boards

“Quality of interactions amongst members of the board can enhance or damage the organisation”

Andrew Kakabadse

The Chairman – Critical Role

Effective Chairman – leads the board



Effective Board – CEO leads the company



Effective Company



Positive Outcomes, e.g. shareholder value

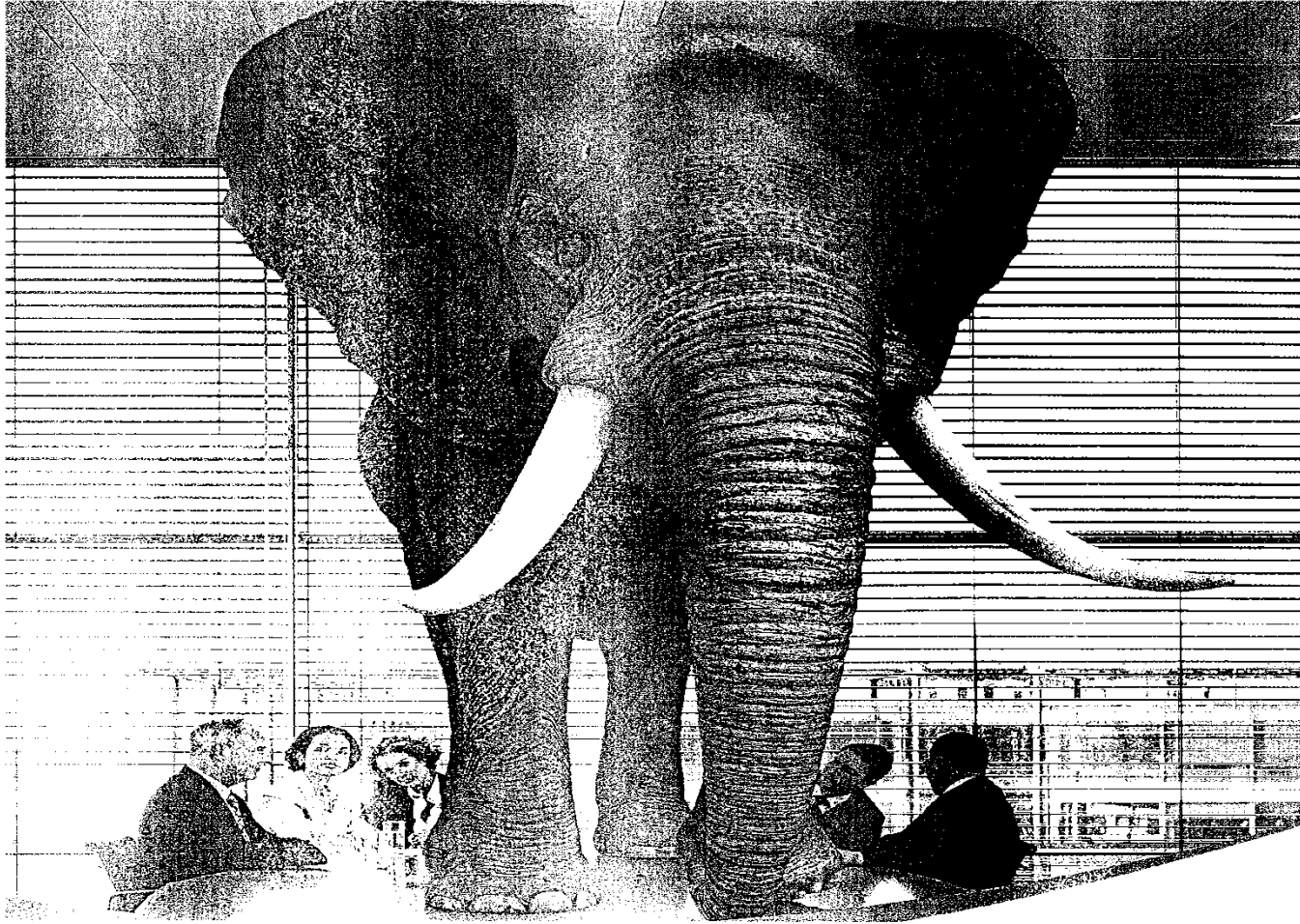
Characteristics of an Effective Board

- **Maturity**
- **Direction**
- **Disciplines**

- **Can I talk to you?**

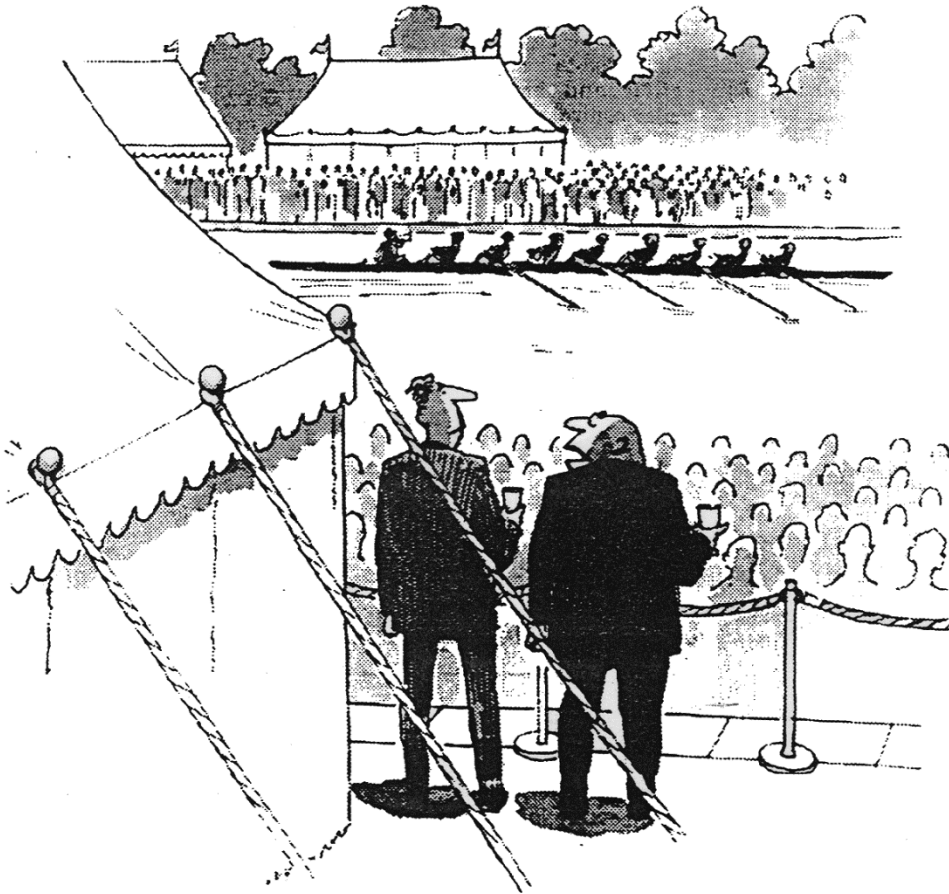
The capability to invite, offer and receive well, feedback and to talk about the “real” issues.

- The role of “appropriate” challenge



FINANCIAL TIMES
NON-EXECUTIVE
DIRECTORS'
CLUB

Importance of Direction



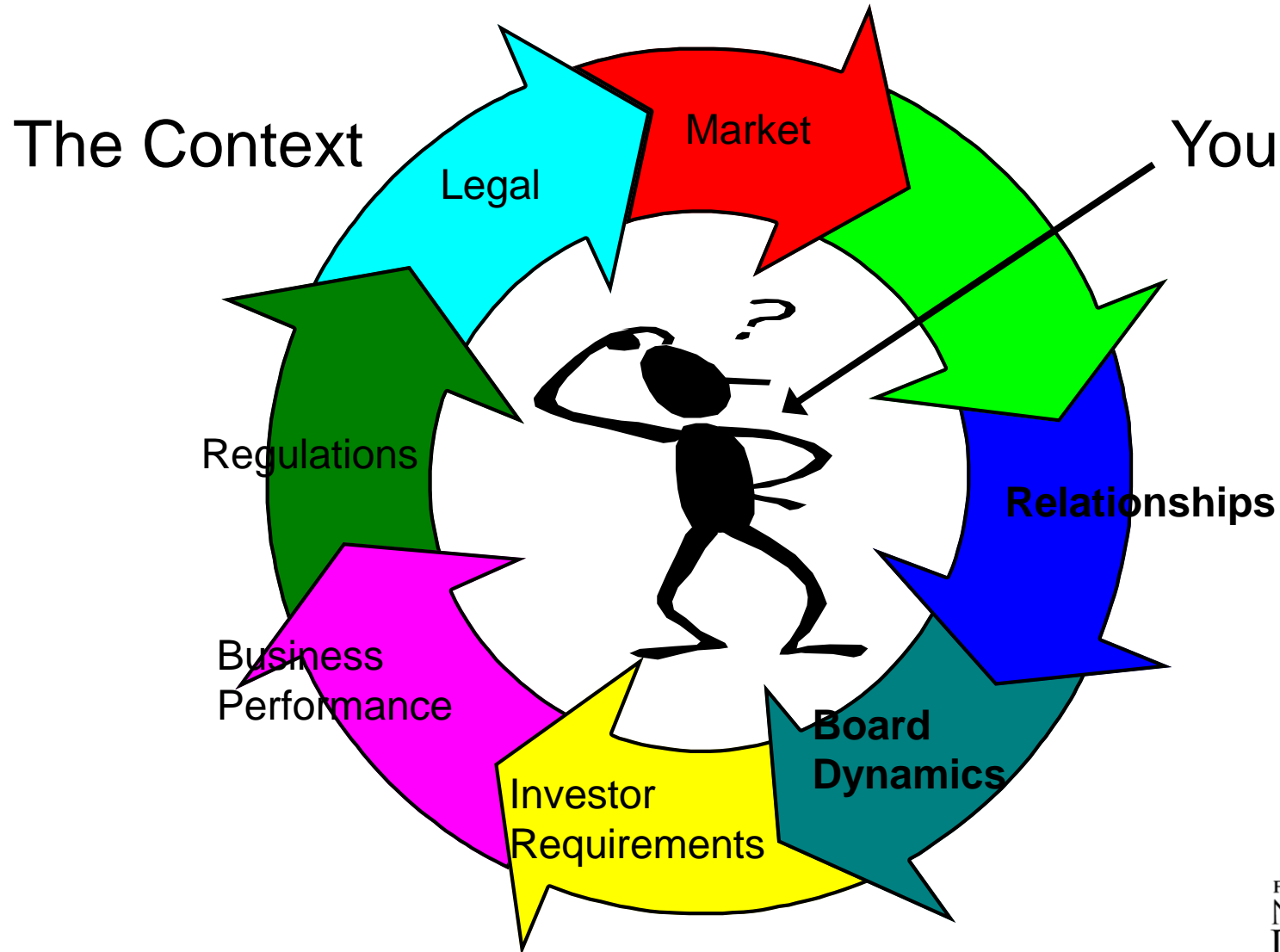
“Not a sight
you’ll
see that often
in business,
Thompson.

Eight people
all pulling in
the same
direction.”

Disciplines - Three Critical Areas

- Before: The Preparation
- During: Managing the Meeting
- After: The Follow Up

The Effectiveness of the NED Role depends upon.....



Role of the Non-Executive Director

“The fundamental job of NED’s is to see that the company is properly run, not to run it.”

In many instances this means having the ability to force management to distinguish between mindset and fact.

How do you do this?

Role of the Non-Executive Director

**“CHALLENGING:
ASKING THE
RIGHT QUESTIONS”**

Personal Attributes of the Effective Non-Executive Director

The NED role is complex and demanding and requires skills, experience, integrity, and particular behaviours and personal attributes.

- Integrity and high ethical standards - these are a prerequisite for all directors
- **Sound judgement and an inquiring mind. NED's should:**
 - **question intelligently**
 - **debate constructively**
 - **challenge rigorously, and**
 - **decide dispassionately**

NED Dilemmas - Challenge and Support

- NED effectiveness = challenging executives from a position of relative ignorance
- **Skilful challenge stimulates action by executives plus reflection that ideally forestalls future errors; and**
- **Sets standard for executive performance and conduct that ensures a permanent presence for NED concerns in executive minds**
- Effective challenge has to be felt to be well informed as well as motivated by a concern to enhance executive performance.

And the Big Question?

How much time does it take to be an effective

Non-Executive Director?

(No longer a job for the lucky gifted amateur!!!)

Is it worth it?

FINANCIAL TIMES
NON-EXECUTIVE
DIRECTORS'
CLUB



Questions?

In association with

