



Non-exec role needs careful consideration

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CAREERS

LAWYERS are frequently working with owners and directors of companies during periods of development and change, and are often aware that their clients need general business advice and support alongside their legal advice. This is most effectively delivered by a non-executive director (NED) supporting the company through strategic decision-making and periods of growth or change, sometimes for several years. Lawyers are often asked if they know of a suitable NED in these circumstances and may even consider taking on the role themselves, either as a supplementary role or as a second or third career.

First and foremost, it is essential that anyone taking on such a non-executive support role should have a relevant business background. Business owners and directors will expect their NED to have run a business themselves and to be an appropriately qualified generalist business adviser. Lawyers interested in this role will typically be corporate lawyers and would already be involved in managing their own firm or another business.

If considering this career option alongside a legal career there are several issues to consider.

► There would almost certainly be a number of circumstances where a conflict of interest could arise if a practising lawyer were to combine

the role of NED with the legal advisory role at the same time with the same client. Particular attention should be given to The Law Society's guidance on this point.

► Professional indemnity insurance for business advisers and NEDs will be quite different and will have to be separate from any legal practice professional indemnity insurance.

► NEDs need specific training, qualification and relevant continuous professional development as a generalist business adviser, as well as direct business management experience.

For a complete career change, a corporate legal background could be a pre-requisite, as a period managing another business is. With the growing trend of people taking up second or third careers, becoming a NED is an option for an experienced corporate lawyer, provided they are willing to gain the direct business management experience and undertake relevant re-training and re-qualifying.

Some outdated perceptions of the role of a NED persist. They are not appointed just for their contacts or for corporate governance reasons only. Similarly, the appointment of a family member or friend is also now rare, as it is recognised that they do not have the experience, expertise or objectivity required. A modern NED has to be cost-effective, add value, steer the company towards agreed objectives and support the implementation of development or change-action plans. It is not even essential for a modern NED to take on the formal director title.

Edward Lee, head of corporate finance at Blake Laphorn Linnell, says: "A decision as to

whether a lawyer would make a good NED or not for any business and, in particular, for a client of your firm should, in my view, always be driven by the question 'Is this in the best interests of the business?'

"There is no doubt in my mind that there are a number of lawyers who would make very able NEDs and who would be of benefit to any board. In practice, however, I suspect the issues of conflict and insurance are the disincentives that lead lawyers to conclude that perhaps

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taking up such appointments is not as straightforward as it otherwise might be."

One way to gain an insight into the role of an NED is by observation and consultation when working with a client who has engaged or who needs to engage a NED. Corporate lawyers are often in an excellent position to recognise when a client will benefit from the support of a NED. There is an opportunity to work in close collaboration to the advantage of lawyer and NED alike and, as long as the client and both parties understand and agree on confidentiality issues, it can be enlightening for both of them and of benefit to the client.