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Governance in government

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David Gilchrist discusses some of the issues faced by public sector boards and committees and what to look for before accepting a position on one.

THROUGHOUT ITS HISTORY, THE AUSTRALIAN public sector has used the services of boards and committees made up of independent members who often hail from outside the sector. Whether at a state or Federal level, the issue of board and committee appointments, management and evaluation continues to be a ubiquitous challenge to senior public servants, policy makers and those people who are invited to join such bodies. Australia is not an orphan here either. Across the Anglophone world, considerable angst has been the rule rather than the exception when considering questions on how board members should be selected, how boards should carry out their work and how that work should be assessed for performance. In England, Canada and the US, debate has been significant and we would do well to learn from the experiences of these countries. However, in Australia, we also have a maturing system and, if not universal solutions, a general agreement as to what the issues are and some ideas about how we might resolve them. The importance of this question becomes emphasised when we recognise that there are literally thousands of such committees and boards in operation across Australia at any one time.

In discussing the issue of governance, we must recognise that public sector boards and committees operate under different governance frameworks in different jurisdictions. Further, constituting legislation may also enforce different governance standards for different organisations within one jurisdiction. Depending on the public sector entity over which they are to perform supervision or contribute to in some way, boards and committees can be appointed to provide ministers and departments simply with advice or at the other end of the spectrum, have a formal and substantial role in the governance of the organisation.

I do not propose to discuss government trading entities here as, generally, they are commercial concerns and by and large, the commercial model of corporate governance and board management suffices. However, it is the application of the commercial model of corporate governance that constitutes a difficulty in how other bodies are created within the public sector.

Many public sector models of corporate governance are based on the commercial model or, as some have come to call it, the conventional model of corporate governance. The signs of strong corporate governance under this model include the separation of the chairman and the CEO, the appointment of independent directors and keeping the membership of the board to a workable size. A further element recognised as representing sound corporate governance in the commercial model is that of board performance evaluation and the reporting of outcomes against planned activities.

The applicability of such elements of sound corporate governance are not challenged by governance commentators within the public sector. There is no doubt that these conventional arrangements serve as well in the public as in the private sectors.

There are also a number of other reasons that the conventional model of corporate governance is often applied to meet public sector needs.

The conventional model is mature and well tested. It has developed over a long period and people in business and the public sector understand its precepts and recognise the strengths inherent in it. Furthermore, many public sector independent board members and committee members come from the commercial sector so they understand the conventional model and its strengths and weaknesses. As a point of practicality, the development of a public sector-specific model of corporate governance is a long time coming and so, in the interests of moving forward, governments and those involved in establishing and running committees and boards need to use a model that is well understood. Of course, the model does not meet all of the exigencies of public sector governance and some of the fundamental relationships understood in commerce do not exist in the same way in the public sector.

As many readers will know, the appointment of a board in the public sector is most often the result of a legislated mandate and is the responsibility of the relevant minister of the Crown. The minister carries both responsibility, in the context of the Westminster system of government, and political capacity, while, often, the board carries a much more limited mandate than that enjoyed by commercial boards. Further, this reduction in mandate may mean the board needs to operate within the confines

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of government policy, public sector rules and procedures and that the board may not have complete discretion when taking decisions.

Overall strategic direction, policy direction and/or key performance indicators may be set for the board by the minister or some other authority, while the board is left with the responsibility of pursuing the organisational goals within the framework set.

The three-way power sharing arrangement that often grows between the minister, the CEO (often the undersecretary or director general) and the board can enhance the complexity for chairmen who are not used to the public sector's operating methods. This complexity can cause great difficulty when political and other pressures begin to see the locus of power shift between these entities. At this point, the development of clarity of purpose and the laying of ground rules at the point of establishment proves of great benefit to the parties involved.

Often, when boards and committees are created within the public sector or when new members are appointed, if those members come from the private sector, they are likely to bring a strong sense of their role and purpose with them. These new members are often well advised to establish in their own minds the full role of the board or committee to which they are to be appointed and their role on that body. Taking the time to consider their role and the extent to which that role conforms with their personal sense of the proper purpose of a committee or board may protect potential members from heartache at a later date as political and other pressures drive decision-making processes.

Indeed, the appointment process is a perfect time for potential members to take soundings as to the extent to which the body enjoys independence, the extent to which it has capacity to pursue its purpose and the state of the relationship between the minister, the body and the management of the agency.

While asking questions before appointment is a normal activity for any experienced board member, the focus of the questions and the interpretation of the answers may test even the most experienced of them if they have not sat on a public sector body before. Of course, issues such as solvency and risk are still to be considered, but often the most important considerations pertain to the capacity of the board to deploy resources rather than where those resources come from. Public sector organisations may have significant appropriations and other sources of income. However, the successful generation of revenue does not mean the organisation will have that revenue to use in fulfilling its mission. The type of appropriation, the destination of funds raised and the lack of a capacity to spend may well inhibit a board's capacity to pursue its goals. Further, these issues may not be readily apparent and so the potential director also needs to consider these wider issues.

Such questioning also needs to extend to gaining an understanding of the performance measurement arrangements in place and through which the director and the board will be assessed. Clearly, an important element of the conventional model of corporate governance is the assessment of board performance. The creation of work plans, the proper identification of strategic capacity and the delineation of objectives against which performance can be assessed is fundamental to sound board management. However, in the case of public sector boards and committees, the identification of easily quantifiable performance indicators appropriate to the body's purpose is not always possible. Classic indicators used in the commercial sector, including profit measurement, increases in turnover and the like are not usually of primary importance in public sector bodies. Further, the success or otherwise of board and committee initiatives may not be known for a number of years, particularly if the initiatives relate to community development and the like.

Overall, there is a long way to go in terms of the development of mature and robust governance models for public sector entities. However, the process of development is well underway. It is up to board members and prospective board members to be awake to the differences between the commercial and public sectors and to appreciate the different position they may be in. ⊕

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