

# The Role of a Company Director

Course book



...market leaders for Director training



---

## Course book

This document contains the text of the PowerPoint displays that are used during the presentation of the course

### The Role of a Company Director

It is subject to copyright law and should not be reproduced by any unauthorised person for their own use, selling on to a third person or for presentation to other people.

UK Training (Worldwide) Limited  
17 Duke Street  
Formby  
L37 4AN

**Website:** [www.uktraining.com](http://www.uktraining.com)

**Email:** [info@uktraining.com](mailto:info@uktraining.com)

**Telephone:** 01704 878988



# Your free eBook

---

You can now download your exclusive copy of

## **The Role of a Company Director – Supporting Notes**

This book will be a useful source of information  
for you to refer to after the course.

---

To download the book please type the following  
into the address bar of your browser:

**[www.uktraining.com/rcd16](http://www.uktraining.com/rcd16)**

---

## **Contents**

Session 1 – What is a director and how are they appointed? .....	1
Session 2: Directors’ general duties under The Companies Act.....	5
Session 3: Your personal liabilities as a director .....	9
Session 4: The role of the board in leading the company .....	19
Session 5: The director’s role in risk and crisis management .....	29



---

## ***Session 1 – What is a director and how are they appointed?***

### **What is a director?**

- Dictionary definition:
  - A member of the board of people that oversees the affairs of a business
- There are many types of director, not just the formally appointed:
  - Can be in action or deed
  - A director is defined in law according to what they do, rather than their actual job title

---

---

---

---

---

---

---

---

### **Types of director**

- De facto director
  - A person not formally appointed to the board might be deemed a director if their role could be considered equivalent to that of a director, or if they have acted as a director
- Shadow director
  - A person in accordance with whose directions or instructions the directors of a company are accustomed to act (e.g. founder but not board member) - advisors excluded

---

---

---

---

---

---

---

---



## Types of director

- Nominee director
  - Appointed to the board of a company to represent the interests of his appointor on that board
  - E.g. shareholder, a creditor or another stakeholder/funder
  - This puts such a director on a collision course with the duties he owes as a director to his company
- Alternate director
  - A person approved by the board, appointed by a director to act in their place if they is absent from a meeting
  - Has all the same responsibilities and other directors

---

---

---

---

---

- Associate Director
  - Often used by companies to give an incentive to key employees by recognising their importance within a company
  - It is a role of implied seniority / authority but is not a legally recognised term
    - Allow them to engage with senior people credible in other organisations
    - Often have significant managerial and leadership responsibilities
  - An associate director is therefore **not a director** within the meaning of the Companies Act 2006
  - **Beware of conferring these titles!**
    - This can in the eyes of a client or partner company be viewed as a director and may inadvertently bind the company
    - Use 'Head of XXXX' instead

---

---

---

---

---



## Executive versus non-executive directors

<b>Executive directors</b>	<b>Non-executive directors</b>
<ul style="list-style-type: none"><li>• Perform operational and strategic business functions:<ul style="list-style-type: none"><li>– Managing people</li><li>– Looking after assets</li><li>– Hiring and firing</li><li>– Entering into contracts</li></ul></li></ul>	<ul style="list-style-type: none"><li>• Use their experience and expertise to provide independent advice, challenge and objectivity</li><li>• Perform specialist roles on a part-time basis</li><li>• Apply their expertise in specific activities, such as strategy and contract negotiation</li><li>• Can be independent or non-independent</li></ul>

---

---

---

---

---

---

---

---

### Question 1

Which of the following statements best describes the function and / or status of a non-executive director?

1. Is one amongst equals
2. Exists primarily for Governance compliance
3. Provides constructive challenge to the board
4. Does not have the same legal responsibility as they are part time in the business
5. Often manage day to day organisational activities

---

---

---

---

---

---

---

---





---

## What is an officer of the company?

- General: Person who holds an office of authority, command, or trust
- Corporate (UK): Person who acts in an official capacity on behalf of a company, e.g.:
  - A company secretary
  - Director
  - Executive
  - Manager
  - Other individual authorised to so act
- Hence all directors are officers but not all officers are directors

---

---

---

---

---

---

---

---

---



---

## ***Session 2: Directors' general duties under The Companies Act***

### **Question 2**

In a company that is a going concern, to whom does a director primarily owe their duties to?

1. The shareholders / members
2. Their fellow directors
3. The company
4. The employees
5. The company's creditors

---

---

---

---

---

---

---

---

---

---



---

## **What are the seven general duties?**

- Duty to act within powers
- Duty to promote the success of the company
- Duty to exercise independent judgement
- Duty to exercise reasonable care, skill and diligence
- Duty to avoid conflicts of interest
- Duty not to accept benefits from third parties
- Duty to declare an interest in proposed transaction or arrangement

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

## **To whom are directors' general duties owed?**

- Directors' general duties are owed exclusively to the company – not to individual members, not to third parties and not to so-called 'stakeholders'
- It follows that only the company can enforce the duties and be compensated for a breach

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---



## Exercise – RoadSmart

### Background

RoadSmart is a limited company providing street cleaning and maintenance services whose main customer is the local borough council. It has been a successful SME and had ambitions to expand its operations but lacked the financial resources for its plans. Venture capitalists 3E have invested heavily to help RoadSmart develop its business. The bulk of its work is now with local authorities but it has had some small success in securing non-local authority work. However, it is still largely dependent on local authority clients.

RoadSmart has 4 executive directors and a non-executive chair:

- William Wyman – Managing Director
- Michael Jagger - Operations Director
- Keith Richards - Finance Director
- Charles Watts - HR Director
- Brian Epstein - Non-Executive Chair

There is also a representative from 3E on the board. His name is Mr Brian Jones. His brief is to keep an eye on the board and make sure that 3E gets its returns come what may.

3E has a Strategy Committee, external to RoadSmart, that formulates and enforces the implementation of the RoadSmart strategy through Mr Jones.

### Current Situation

The business has been successful for two years, with all 3E targets being achieved. However, in recent times the local authorities, in the face of impending budget cuts, have become difficult to deal with resulting in contract scope and values being reduced and significant delays in the payment of RoadSmarts' invoices. This has led to cash flow problems compounded by their heavy dependence upon local government for business.

RoadSmart have attempted to secure other external business but the Strategy Committee has told the board it cannot do this as it a significant risk to their existing revenues.

At the last board meeting, Mr Richards announced that cashflow had further deteriorated and that insolvency was now likely. Mr Wyman is convinced they can trade their way out of trouble by getting additional business from other, yet to be identified, commercial clients and is trying to convince the board to continue. Mr Watts objects to this but is being shouted down by both Mr Wyman and Mr Jones (Jones is trying to protect 3E's interests).





---

## ***Session 3: Your personal liabilities as a director***

### **Legal directors liabilities**

- Many and varied with personal and, financial and maybe legal consequences
- Breach of duties could result in being found guilty of:
  - Wrongful trading
  - Fraudulent trading

---

---

---

---

---

---

---

---

### **What is wrongful trading?**

- Wrongful trading can occur from when directors know or ought to know that there is no reasonable prospect of the company avoiding insolvent liquidation
- Wrongful trading is a consequence of negligence
- Directors must put the interests of the creditors first
- The court can order one or more directors or shadow directors to make a contribution to the company's assets

---

---

---

---

---

---

---

---



---

### What is fraudulent trading?

- It can occur if a director acts dishonestly
- This can arise in the case of winding up, not necessarily insolvent winding up
- The court can order the director to make a payment to the company
  - This is separate from possible prosecution

---

---

---

---

---

---

---

---

---

---

### Question 3

What are the features and the consequences of fraudulent trading?

- a) The director acts dishonestly
- b) Directors may be liable to personally to make payment to the organisation
- c) Individual directors may face prosecution

---

---

---

---

---

---

---

---

---

---



### Question 4

The financial controller tells the four directors that insolvent liquidation is more likely than not. The four directors agree but three of them decide to trust to luck, carry on trading and do nothing.

**What should the fourth director do?** *(Type your comments in the chat box)*

---

---

---

---

---

---

---

---

---

---

### Other legislation: applicable to all directors

- Health and safety at work act
  - Corporate manslaughter
- Bribery Act
- Money Laundering

---

---

---

---

---

---

---

---

---

---





---

## Health and Safety responsibilities

Organisations must:

- Provide a written health and safety policy
- Assess the risks to employees, customers, partners and any other people who could be affected by their activities
- Arrange for the effective planning, organisation, control, monitoring and review of preventive and protective measures
- Ensure they have access to competent health and safety advice
- Consult employees about their risks at work and current preventive and protective measures

---

---

---

---

---

---

---

---

## S37 Health & Safety at Work Act

Proceedings under HSWA s.37 will require proof of the following elements:

- That an offence has been committed under any of the relevant statutory provisions by a body corporate
- That the offence has been committed with the consent or connivance of or has been attributable to any neglect on the part of the accused; and
- That the person accused is a director, manager, secretary or other similar officer, or a person purporting to act in any such capacity, or a member of a body corporate whose affairs are managed by its members

---

---

---

---

---

---

---

---



## Corporate manslaughter

- Organisation is guilty **if the way in which its activities are managed and organised...**
  - Causes a person's death, and
  - Amounts to a **gross breach of a relevant duty of care** owed by the organisation to the deceased
- But only if...
  - The way in which the organisation's activities are managed or organised by its **senior management** is a substantial element in the breach

---

---

---

---

---

---

---

---

## Effect of conviction for corporate manslaughter

<p style="text-align: center;"><b>Unlimited fine</b></p> <ul style="list-style-type: none"><li>• 2.5% to 10% of average annual turnover</li></ul>	<p style="text-align: center;"><b>Remedial order</b></p> <ul style="list-style-type: none"><li>• Take steps to remedy management failures</li></ul>
<p style="text-align: center;"><b>Publicity order detailing</b></p> <ul style="list-style-type: none"><li>• Fact of conviction</li><li>• Particulars of the offence</li><li>• Amount of fine</li><li>• Terms of remedial orders</li></ul>	<p style="text-align: center;"><b>Wider issues</b></p> <ul style="list-style-type: none"><li>• Risks to reputation</li><li>• Civil liability</li><li>• Morale</li></ul>

---

---

---

---

---

---

---

---



---

## The Bribery Act 2010

### Offences under the Bribery Act

- Bribing a person
- Being bribed
- Bribing a foreign public official
- Failure of a commercial organisation to prevent bribery

---

---

---

---

---

---

---

---

### Wide territorial application

- S1, 2 & 6 Offence committed in UK, or abroad where person performing act is...
  - A British national
  - Ordinarily resident in UK
  - Body incorporated in UK
- S7 Failure of commercial organisation to prevent bribery
  - Incorporated or formed in UK
  - Carries out its business or part of its business in UK

---

---

---

---

---

---

---

---



---

## Difficult areas

- Agents
- 'Facilitation payments'
- 'Lavish' entertainment
- Gifts
  - Value and frequency
  - Approving and recording

---

---

---

---

---

---

---

---

---

---

## Guidance: the six principles

- Proportionate procedures
- Top level commitment
- Risk assessment
- Due diligence
- Clear communication – including training
- Monitor and review

---

---

---

---

---

---

---

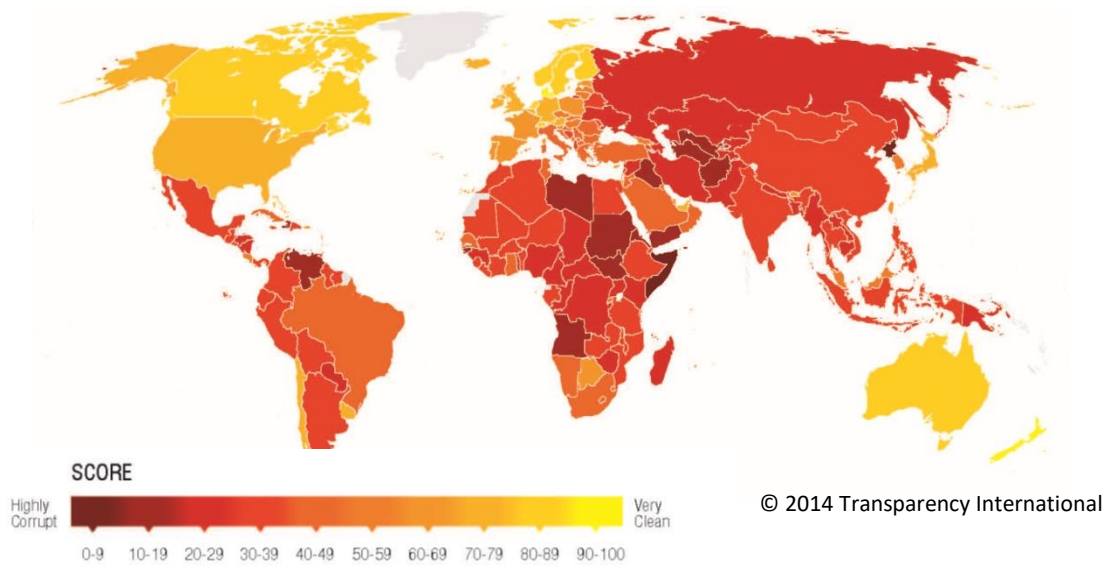
---

---

---



## Risk heat map



## Actions

- Know the legislation and potential impact on business
- Assess the risks – geographical and business type
- Commit the company against bribery and corruption
- Agree a written policy
- Adopt and integrate systems and procedures
- Provide training for employees
- Implement - Evaluate - Improve



---

### Question 5

- One of your company's major suppliers wants to take you and your partner to the FA Cup Final
- Transport and hospitality will be provided
- You would both like to go

**What should you do?** (Type your answer in the chat box)

---

---

---

---

---

---

---

---

---

---

### Money laundering

*"The process by which criminals disguise the original ownership and control of the proceeds of criminal conduct by making such proceeds appear to have derived from a legitimate source."*

- Placement
- Layering
- Integration

---

---

---

---

---

---

---

---

---

---



## Question 6

You have a reasonable suspicion that one of your customers is engaged in money laundering  
There are a number of actions you are considering:

1. Contact your responsible person in your organisation
2. Withhold payments
3. Contact their CEO to discuss your concerns
4. Turn a blind eye, it's their business not yours
5. Contact National Crime Agency with details
6. Business as usual with the company

**What actions *should* you take?**

---

---

---

---

---

---

---

## Discussion

- Can you suggest one or two more companies or organisations that have suffered reputational damage?
- Did they handle the problems badly?
- Can you suggest one or two companies or organisations that benefit from a reputation for fair dealing?

---

---

---

---

---

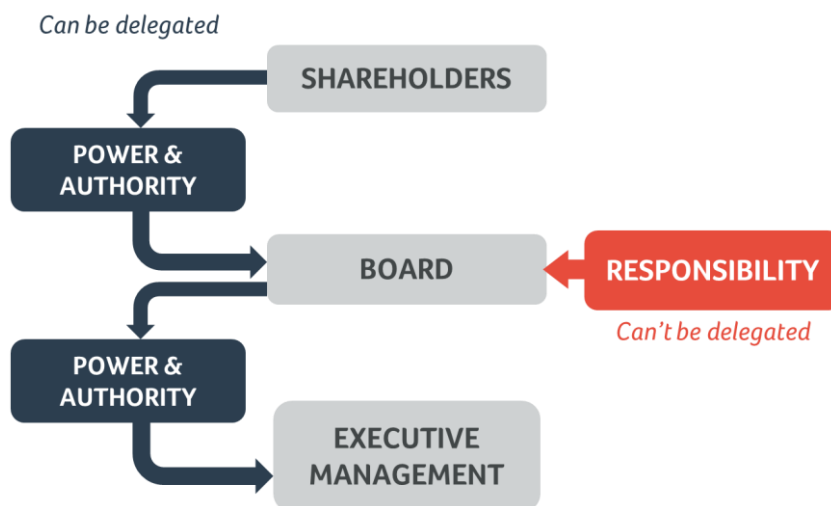
---

---



**Session 4: The role of the board in leading the company**

**Direction, management & ownership**



---

---

---

---

---

---

---

---

---

---

---

---

---





## The role of the board

- Joint and severally responsible for its action (applies to all directors)
- Set the organisation's **vision, purpose** and **values**
- Set the organisation's **strategic aims**
- **Entrepreneurial leadership**, with **prudent** and **effective controls**
- Ensure necessary **capabilities** (including financial resources) are in place
- Review management **performance** and **behaviour**
- Ensure **obligations** to shareholders and other stakeholders are understood and met
- Deal with the inevitable paradoxes of organisations

---

---

---

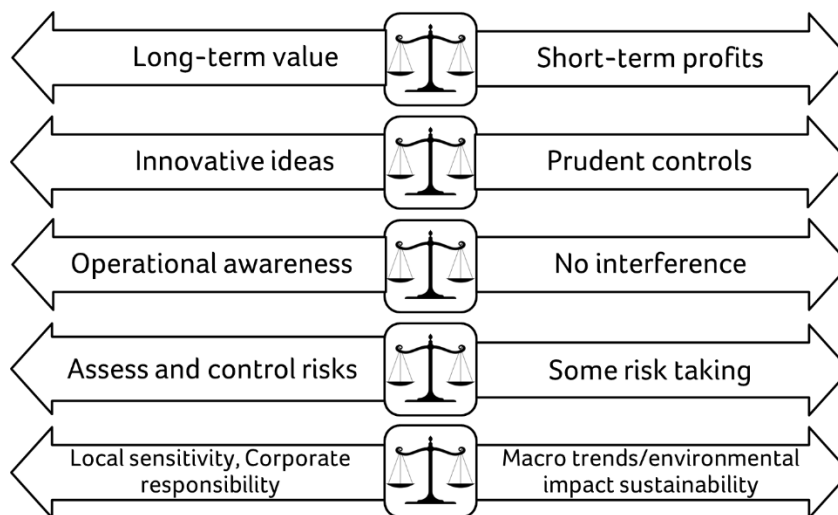
---

---

---

---

## The board's inevitable paradoxes and dilemma



---

---

---

---

---

---

---



## Leadership

<b>What is leadership?</b>	<i>'The art of getting someone else to do something you want done because he (or she) wants it done' (Eisenhower)</i>
<b>How do you know that you are a leader?</b>	Leaders have followers. A leader without followers is just a person!
<b>Leaders can be 'official' and 'unofficial'</b>	Not just what the organisation chart says!

Leaders decide what should be done  
Managers make sure it is done...

---

---

---

---

---

---

---

---

### Question 7 - Characteristics of a leader

What do you think are the characteristics of a good leader? *(Type your answers in the chat box)*

---

---

---

---

---

---

---

---



---

## Vision, purpose and values

- Vision
  - A clear and compelling view of what the future of the organisation could be
- Purpose
  - Describes why the organisation exists, the business the organisation is in today (i.e. markets and customers)
  - ‘Why is the work we do important?’ rather than ‘What does the organisation do?’
- Values
  - Indicate how to behave while delivering the vision

---

---

---

---

---

---

---

---

## Organisational vision

Directors should:

- Describe the vision in a way that generates commitment and support
- Translate the vision into strategy and business objectives
- Align the vision with the corporate values
- Assemble sufficient organisational capability (competencies, capacity and culture) to successfully pursue the vision and strategy
- Drive processes that allow strategic adjustment in response to changing circumstances, while remaining focused on the vision

***The vision is what keeps everyone going when they have a bad day!***

---

---

---

---

---

---

---

---



## Setting the tone

- The tone of an organisation is set by the current leaders
- Successful leaders align:
  - Their agreed **values** and **beliefs**
  - **Strategic decisions** that are consistent with those values and beliefs
  - Their **own behaviour** that is consistent with both their espoused values and the decisions they have collectively taken

---

---

---

---

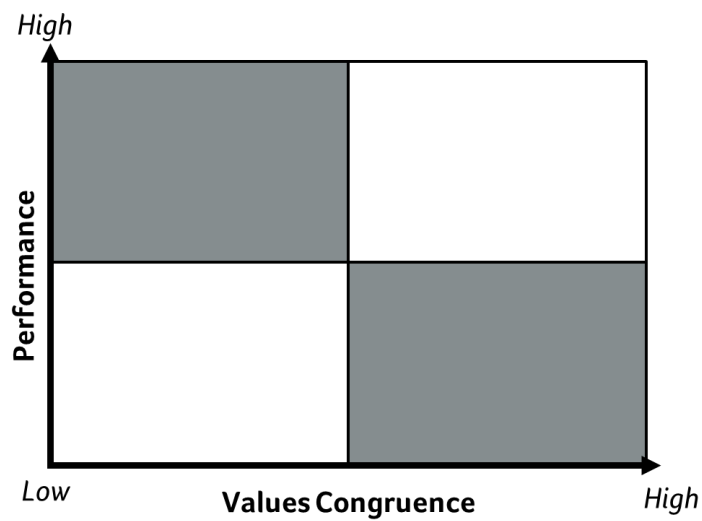
---

---

---

---

## Values vs performance after Jack Welch



---

---

---

---

---

---

---

---



## Why teams?

“...the more I look at the history of business, government, the arts and the sciences, the clearer it is that few great accomplishments are ever the work of a single individual... the problems we face are too complex to be solved by any one person or any one discipline...”

*Professor Warren Bennis*

---

---

---

---

---

---

---

---

---

---

## What do great board teams look like?

- External perspective
  - Lack of mistakes
  - Quality of output and performance
  - The ‘buzz’ in/around the team
  - Team members enjoy it
- Internal perspective
  - Clear vision and sense of purpose
  - Talent and skill
  - Balance
  - Motivated discontent
  - Discipline and positive politics

---

---

---

---

---

---

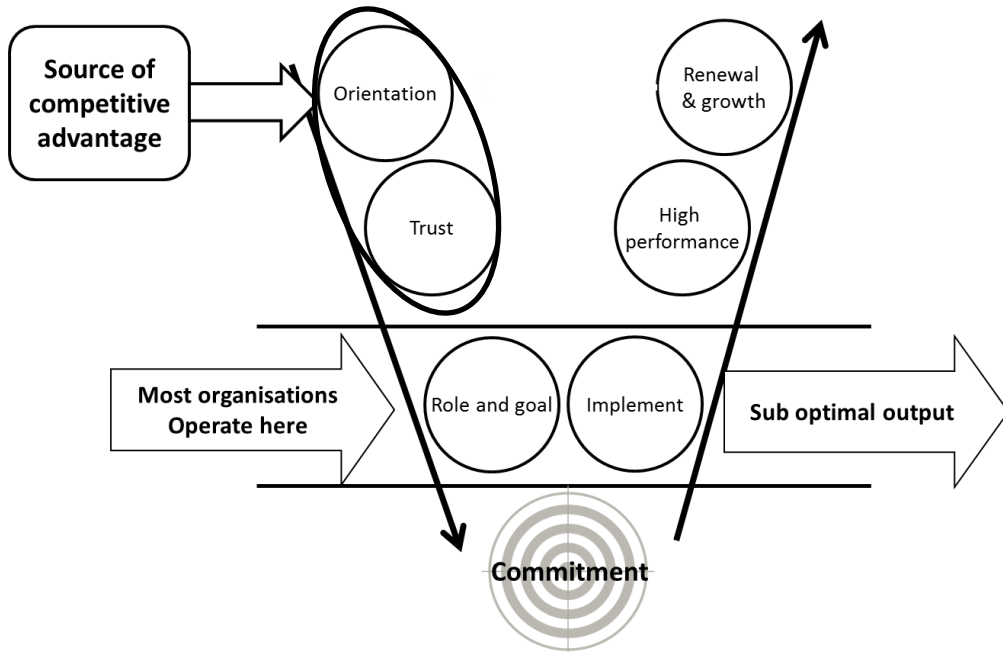
---

---

---

---

## High-performing groups



*Adapted from Sibbet, Drexler and Forrester*

---

---

---

---

---

## Remote / Virtual team challenges

Virtual (dispersed) teams require:

- Enhanced task and functional support
- Stronger psychological, social and emotional support
  - Need to be loved and feel part of the team
- Need face time with their peers

---

---

---

---

---



## Technology can help the effectiveness of remote teams

- Traditional technology in the boardroom
  - PowerPoint
  - Teleconference
  - Video conference
- More sophisticated use of technology
  - Teams
  - Zoom
  - Adobe Connect
  - Electronic distribution of board papers
    - Electronic minute taking
    - Realtime voice translation
  - Virtual and augmented reality

---

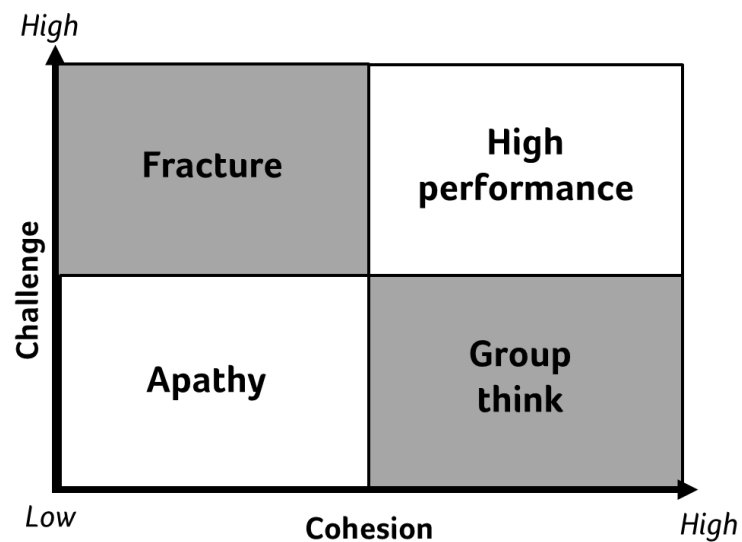
---

---

---

---

## Team dynamics



---

---

---

---



### Question 8: Team dynamics – high performance

Take 2 minutes to think about the characteristics of a high performing board? *(Enter your thoughts in the chat box)*

---

---

---

---

---

---

---

---

---

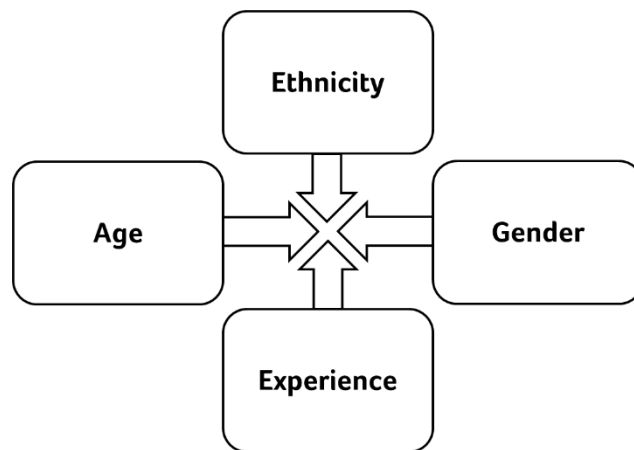
---

---

---

### Diversity in teams

The 'big four'



---

---

---

---

---

---

---

---

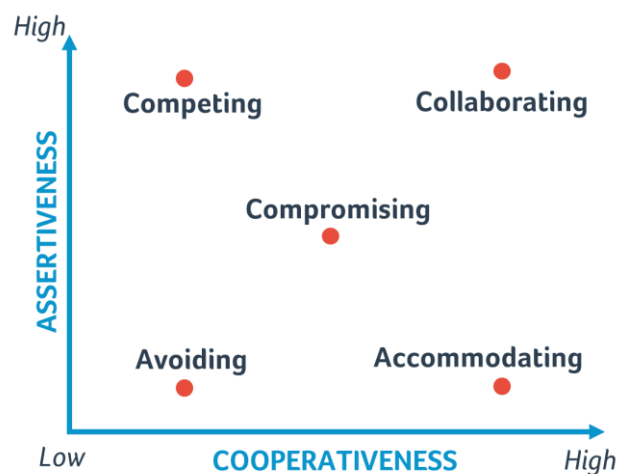




## Dysfunctional teams

- Lack of trust and/or respect
- Secret meetings and/or special interest cabals
- Different agendas and/or personal agendas
- Dominant individual members with poor board/team skills (especially if it's the leader)
- Weak or non-participating members
- Political/vested interests
- Lack of confidentiality
- Poorly structured meetings, lack of discipline
- Groupthink/Abelene Paradox

## Managing conflict



Thomas-Kilman



---

## **Session 5: The director's role in risk and crisis management**

### **What is risk?**

- Risk can be defined as the combination of the probability of an event occurrence and the impact of its consequences
- Include civil and criminal consequences
- Can be corporate and or personal
- This can drive behaviour
  - Risk aversion v some risk taking
  - Entrepreneurialism v recklessness
- An issue is an actual current event; a risk may not happen
- An upside risk = an opportunity

---

---

---

---

---

---

---

---

---

---

### **Calculated risk**

“Risk is like fire: if controlled it will help you; if uncontrolled it will rise up and destroy you.”

*Theodore Roosevelt*

---

---

---

---

---

---

---

---



## Principles of risk management

- What to do with risk:
  - Treat
  - Tolerate
  - Transfer
  - Terminate
- All help build a risk culture!

---

---

---

---

---

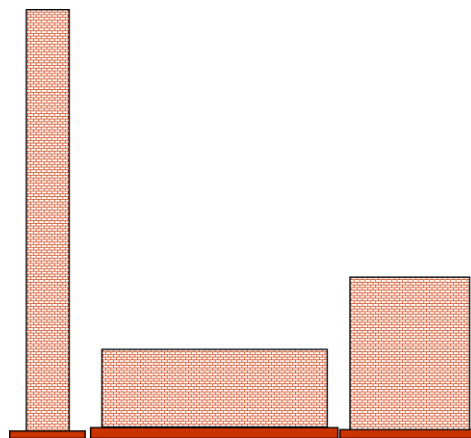
---

---

---

## Risk appetite

- Each wall is 40m<sup>2</sup>; is the construction risk identical?
- What sort of company will get the contract for building the tall wall?
- Nothing ventured, nothing gained
  - Ability to take risks is a competitive discriminator
  - Your ability to handle risk brings opportunities



---

---

---

---

---

---

---

---



---

## Question 9

### Defining risk appetite

- How would you articulate or quantify your board's appetite for risk?
- What's the difference between risk **appetite** and risk **tolerance**?

---

---

---

---

---

---

---

---

---

---

### When risk becomes a crisis

- The level of a crisis can be defined by the seriousness of the threat it presents
- The seriousness of the crisis determines the level and urgency of response
- Gene Klann characterises crises on three levels:
  - Level 1 – organisation will be publicly embarrassed and the delivery of its vision, purpose and values threatened
  - Level 2 – the crisis could result in personal injury, some property loss, possible loss of life, possible reputational damage
  - Level 3 – the crisis would result in loss of life, significant property loss, reputational damage, threaten the organisation's survival

---

---

---

---

---

---

---

---

---

---



---

## Sources of crisis

- Terrorism
  - Sept 11 twin towers
- Cyber attacks
  - Ashley Madison
- Technology failure
  - Challenger
- Natural disaster
  - Fukushima
- Pandemic
  - Avion flu / COVID -19
- Flooding
  - Somerset Levels
- White collar crime
  - Enron
- Accident
  - BP Deep Water Horizon
- Ethics and values Breach
  - Oxfam
- Politics
  - ?

---

---

---

---

---

---

---

---

## Board role in a crisis situation

- Crises *will* happen... so plan accordingly
- The role of the board changes in times of crisis from:
  - Business as usual to crisis containment and resolution
- The board and/or its crisis leaders will be dealing with incomplete information and therefore uncertainty
- Every crisis has a pace of its own
- The organisation will need to change tempo accordingly and reprioritise what is now critical for the business

---

---

---

---

---

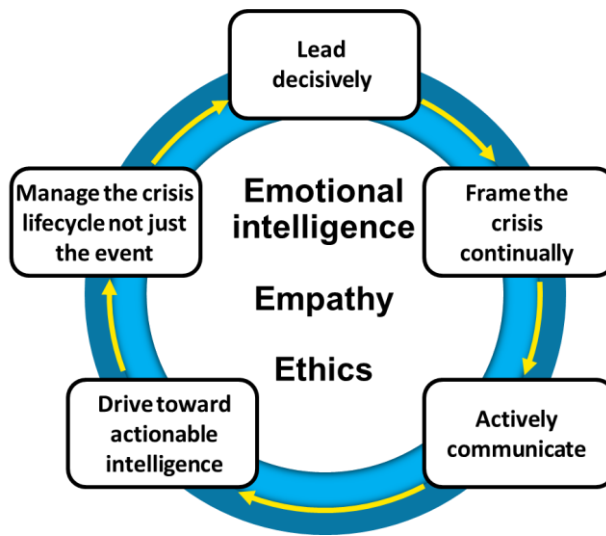
---

---

---



## Crisis leadership – Deloitte’s Model



---

---

---

---

---

---

---

---



**UK Training (Worldwide) Limited**  
17 Duke Street  
Formby  
L37 4AN

**w** [www.uktraining.com](http://www.uktraining.com)  
**t** 01704 878988  
**e** [info@uktraining.com](mailto:info@uktraining.com)

