

Mr David Styles  
 Director, Corporate Governance and Stewardship  
 Financial Reporting Council

19 July 2023

Dear Mr Styles,

**Consultation on the UK Corporate Governance Code**

Thank you for the opportunity to respond to the above consultation. By way of background, we are sending this submission as members of The Board Effectiveness Guild. Further information about The Board Effectiveness Guild may be found on our website - <https://theboardeffectivenessguild.co.uk/>.

The purpose of The Board Effectiveness Guild is to contribute to thought leadership and promote the value of board effectiveness reviews in board development and practice. We therefore welcome any initiatives which seek to improve the overall standard of board performance reviews and, in particular, are pleased that the FRC proposes to make changes to the UK Corporate Governance Code (the **Code**) that seek to develop the role and value of board effectiveness reviews among listed companies. We have therefore reviewed with interest the consultation document in relation to proposed changes to the Code which was published in May 2023 (the **Consultation Document**).

We have therefore considered, in particular, those sections of the Consultation Document which relate to board effectiveness generally, and board effectiveness reviews in particular, and set out below our responses to the questions raised in that connection as follows:

Your Question	The Board Effectiveness Guild Response
<b>Section 1 – Board Leadership and Company Purpose</b>	
<b>Question 1: Do you agree that the changes to Principle D in Section 1 of the Code will deliver more outcomes-based reporting?</b>	<p>We note that the changes to Principle D seek to lead to a shift away from merely describing the inputs and processes of the governance framework, to an assessment of the effects of that framework and applaud the intent behind this proposed change.</p> <p>The inputs and processes of Board discussion are enablers for effective Board decision-making to occur, they are not the primary drivers for the effective of the outcomes. Companies may, therefore, find it difficult to make the connection between the inputs and processes and the actions/decisions taken by the board meaning that the consequential reporting will be contrived rather than particularly relevant.</p>
<b>Question 2: Do you think the board should report on the company's climate ambitions and transition planning, in the context of its strategy, as well as surrounding governance?</b>	We do not have any comments in relation to this question.
<b>Question 3: Do you have any comments on the other changes proposed in Section 1?</b>	We do not have any comments in relation to this question.

Your Question	The Board Effectiveness Guild Response
<b>Section 2 – Division of Responsibilities</b>	
<p><b>Question 4: Do you agree with the proposed change to Code Principle K (in section three of the code), which makes the issue of significant external commitments an explicit part of board performance reviews?</b></p>	<p>We agree with the concerns of investors and others about the time that directors are able to make to their board and committee responsibilities and agree that it is an important element of board effectiveness that all directors are able to fully focus their time and attention in fulfilling those responsibilities. This is a collective responsibility for the board itself and, in the first instance, it should be the role of the board itself, led by the chair, to ensure that directors give sufficient time and attention to their duties rather than relying on an external reviewer to monitor the situation.</p> <p>We consider that board reviews should be holistic exercises which cover all aspects of the effectiveness of the board, its committees and individual directors. The scoping of board reviews, particularly those that are externally facilitated, needs to be directed towards those areas of the board's activity that are most likely to have an impact on its effectiveness. Time commitment is one of many components that contribute to board effectiveness.</p> <p>Introducing a requirement to check specific issues such as time commitments into board effectiveness review will be disruptive to the process and, in a lot of cases, an unnecessary distraction from more important issues and therefore are likely to undermine the overall usefulness of external board reviews as a consequence.</p>
<p><b>Question 5: Do you agree with the proposed change to Code Provision 15, which is designed to encourage greater transparency on directors' commitments to other organisations?</b></p>	<p>We agree that directors have a duty to satisfy themselves that they and their colleagues are spending sufficient time, and contributing adequately, to board meetings and their wider board responsibilities. However, we feel that a requirement for companies to describe how each director has sufficient time to undertake their role effectively in light of other commitments may be problematic.</p> <p>The time management strategies employed by individual directors will vary and describing them may not be easy, particularly not by reference to other specific appointments that they might have. It may be better to focus on how the board satisfies itself that directors are able to give enough time and attention to their duties rather than trying to probe the other commitments in further detail.</p>
<b>Section 3 – Composition, succession and evaluation</b>	
<p><b>Question 6: Do you consider that the proposals outlined effectively strengthen and support existing regulations in this area, without introducing duplication?</b></p>	<p>We do not feel that the proposals introduce duplication.</p>
<p><b>Question 7: Do you support the changes to Code Principle I moving away from a list of diversity characteristics to the proposed approach which aims to capture wider characteristics of diversity?</b></p>	<p>We agree that diversity takes many forms and therefore welcome the move away from restricted list of diversity characteristics.</p>

Your Question	The Board Effectiveness Guild Response
<p><b>Question 8: Do you support the changes to Provision 24 and do they offer a transparent approach to reporting on succession planning and senior appointments?</b></p>	<p>We welcome any changes which seek to lead to a more transparent approach to reporting on succession planning and senior appointments. We consider this to be a continuing priority for any effective board.</p>
<p><b>Question 9: Do you support the proposed adoption of the CGI recommendations as set out above, and are there particular areas you would like to see covered in guidance in addition to those set out by CGI?</b></p>	<p>We note the proposal to change references from 'board evaluation' to 'board performance review'. Whilst we agree that the term 'board evaluation' is not helpful, we have consistently argued that the term 'board effectiveness review' is more appropriate. For us, the process is not about audit and checks but more about adding insight and value to enable each board to develop and grow its leadership and operation. This has a prospective future-orientated element to it that is easily missed if the process is simply a look back at performance.</p> <p>We welcome the change to the Code that requires that board chairs, commission, rather than consider, a board review. We are firmly believe that chairs should proactively sponsor external board effectiveness reviews and this change is consistent with that view.</p> <p>We consider that there are two important areas where further guidance and, potentially, prescription, would be helpful. First, there needs to be more clarity about what does/does not constitute a conflict of interest – particularly around the role of headhunters in providing effectiveness review services. Second, we are concerned that reviewers have no rights to control what is said about their reviews in client annual reports and believe that there should be some form of control is introduced in this regard.</p> <p>Finally, we also believe that the Corporate Governance Institutes Code of Practice is heavily focussed on the process and the formalities of engagement rather than the principles of good practice in the running of any engagement. This is a point that we sought to address when we produced our own Code of Practice for Board reviews (<a href="https://theboardeffectivenessguild.co.uk/code-of-practice/">https://theboardeffectivenessguild.co.uk/code-of-practice/</a>). We think that there is a role for companies to be given more guidance on the context of reviews. Using examples of best practice may be helpful. This approach has been used very effectively by the FRC in some of their guidance publications.</p>

We do not have any responses in relations to the questions in the Consultation Document relating to sections 4 (Audit, Risk and Internal Control) or 5 (Remuneration) of the Code.

We hope that the above comments are helpful. If you would like to discuss any or all of them further, we would certainly be happy to participate in any follow-up discussions.

Kind regards

Alison Gill, Alex Cameron, Chris Stamp, David Archer and Ian White  
**The Board Effectiveness Guild**