



Business in the Community's response to the FRC's consultation on The Wates Corporate Governance Principles for Large Private Companies

Business in the Community (BITC) exists to build healthy communities with successful businesses at their heart. BITC – the Prince's Responsible Business Network – is a business-led membership organisation made up of progressive businesses of all sizes who understand that the prosperity of business and society are mutually dependent.

In the spirit of being a responsible business, our members are signed up to:

- Being the best they can be in delivering social, environmental and economic sustainability across all areas of their business.
- Joining with other businesses to bring together their collective strength and be a force for good.

BITC sets a course for responsible business, using our Responsible Business Map to guide members on a journey of continuous improvement, working across the whole responsible business agenda, including purpose & values, stakeholder collaboration, governance & transparency, policy engagement, good work & inclusive growth and diversity & inclusion. As such, we welcome the opportunity to respond to this consultation. Our responses here represent the views of BITC as a campaigning organisation rather than the views of our business members more widely, who have not been consulted as part of this process.

CONSULTATION QUESTIONS

1. Do the Principles address the key issues of the corporate governance of large private companies? If not, what is missing?

There is no mention of the company's tax policy and reporting on tax payments. We don't see any logical reason why private companies should not be asked to disclose these. We also believe that there is a responsibility of the board to make sure that the company's pension fund options are aligned to its purpose, values and commitment to responsible business. These could be added to the responsibilities in Principle Three.

Principle Two

Succession planning is missing. All companies should ensure that there are effective succession planning processes in place and take actions to achieve the diversity and expertise required.

Principle Three

The UK Corporate Governance Code, Principle F, describes the role of the chair, we recommend the role of the chair is also included in the guidance here.





2. Are there any areas in which the Principles need to be more specific?

The phrase “long-term” is used extensively throughout. It would be useful to give guidance on what is meant by this since it will mean different things dependent on the ownership model. BITC suggests it should mean a timeframe of at least 10 years, which would encourage companies to develop strategies on the same timescales as the delivery of the Global Goals.

Principle One

The guidance currently says: “A successful company should be directed by an effective board that develops a strategy and business model to generate sustainable value.”

BITC believes that, to avoid doubt and to be consistent with the UK Corporate Governance Code Principle A, it should be emphasised that what is intended is long-term, sustainable value and contributing to wider society. BITC has developed its [Responsible Business Map](#) to guide companies on how they can achieve this.

As a result of the consultation Principle E was added to the UK Corporate Governance Code, which includes. “The workforce should be able to raise any matters of concern.” BITC believes that this should be included in the guidance of Principle One.

Principle Four

Due to companies’ potentially traditional financial focus on risk, BITC believes it would be useful to give more specific guidance on ‘intangible sources of value’. Examples could include risk associated with sustainability, ethics, safety, security. These are risks that could typically have an impact on market share, stakeholder confidence, customer loyalty, employee satisfaction or reputation. The guidance should encourage companies to think about their business’ negative social and environmental impacts and the risks that arise from them. Changing attitudes to business and trends in society may mean that things that were not previously identified as risks now should be.

Due to risk management assessments traditionally looking at timeframes no longer than 1 or 2 years, it should be emphasised here that approaches to risk management need to generate understanding of the emerging issues important to key external stakeholders which may impact the ability of the business to deliver its strategy in the next 10 years. The guidance should specifically refer to the business risks associated with climate change and recommend adoption of the principles and disclosures developed by the Task Force on Climate-related Financial Disclosures.

Principle Five

The principle states “taking into account pay and conditions elsewhere in the company”. And the guidance says “including the pay and conditions of the wider workforce”. The term workforce may need defining. Business in the Community believes that many industries should consider the pay and conditions of agency, contract and employees at other top tier supply chain partners and the





role of the contracting terms of the company in use of those contracts and implications on pay and conditions.

As guidance, Business in the Community would suggest that the board ensures that there is appropriate collection and reporting of workforce data at different pay levels.

The guidance refers to the company's 'long-term success'. BITC recommends that the board should ensure that this 'long-term success' is clearly defined, including objectives and targets (financial and non-financial).

Principle Six

The principle refers to 'meaningful engagement'. Stakeholder engagement is sometimes seen as a defensive, risk mitigation exercise. BITC believes that the guidance should include the following definition: "meaningful engagement focuses on learning, identifying new trends and establishing new opportunities. It seeks to identify synergies rather than trade-offs and it is characterised by a willingness to be open to change".

The guidance says: "This **could** include consideration of how a company's activities may impact future stakeholders". BITC suggest that this should read "This **should** include consideration of how a company's activities may impact future stakeholders"

The principle refers to "material stakeholders". This term needs explaining; it is not clear if the paper defines 'material stakeholders' as those 'stakeholder relationships that are integral to its ability to generate and preserve value'. Alternatively, BITC suggests that the guidance should explain that material stakeholders are "the stakeholders who have high levels of interest in the company and the potential to have high impact on it."

3. Do the Principles and guidance take sufficient account of the various ownership structures of private companies, and the role of the board, shareholders and senior management in these structures? If not, how would you revise them?

No comment.

4. Do the Principles give key shareholders sufficient visibility of remuneration structures in order to assess how workforce pay and conditions have been taken account in setting directors' remuneration?

The Principles are sufficient but the guidance to achieve this could be more direct e.g. "Remuneration structures should explain how the workforce pay and conditions have been taken into account".

5. Should the draft Principles be more explicit in asking companies to detail how their stakeholder engagement has influenced decision-making at board level?





Yes. Principle 6 says: 'A board has a responsibility to oversee meaningful engagement with material stakeholders, including the workforce, and have regard to that discussion when taking decisions'. The term 'have regard' is vague and limits accountability. This Principle is supported by the guidance: 'A board should demonstrate how the company has undertaken effective engagement with material stakeholders and how such relationships have been taken into account in its decision making'. The term 'such relationships' seems vague so BITC suggests replacing with the term 'their interests', in line with the UK Corporate Governance Code. The guidance is more explicit than the wording of the principle. BITC suggests changing the Principle to read: 'A board has a responsibility to oversee meaningful engagement with material stakeholders, including the workforce, and to demonstrate how the company has taken their interests into account when taking decisions.'

6. Do the Principles enable sufficient visibility of a board's approach to stakeholder engagement?

As above, principle six does not currently encourage visibility, but the guidance does because it asks a company to 'demonstrate' their actions. Hence BITC has suggested changing Principle 6 to read: 'A board has a responsibility to oversee meaningful engagement with material stakeholders, including the workforce, and to demonstrate how the company has taken their interests into account when taking decisions.'

Relating to questions 5 and 6. In the recent briefing paper on Corporate Governance Reform (<http://researchbriefings.files.parliament.uk/documents/CBP-8143/CBP-8143.pdf>) page 35 stated that: The Government intends to introduce secondary legislation to require all companies of significant size (private as well as public) to explain how their directors comply with the requirements of section 172 to have regard to employee and other non-shareholder interests. It is envisaged that, as a part of this, companies should explain the mechanisms they have used to engage effectively with stakeholders."

BITC suggests having a scheduled addendum to the guidance on Principle six to include this legislation if/when it is introduced.

7. Do you agree with an 'apply and explain' approach to reporting against the Principles? If not, what is a more suitable method of reporting?

We agree with the apply and explain approach. All Principles should be applied fully. BITC believes that the document should encourage balanced reporting to avoid companies only reporting on how they have positively applied the principles. To enable learning and improvement, companies applying the code need to be encouraged to report future intentions, work in progress, difficulties and challenges they are having applying the principles or following guidance.

8. The Principles and the guidance are designed to improve corporate governance practice in large private companies. What approach to the monitoring of the application of the Principles and guidance would encourage good practice?





Page 7 paragraph 17 of this consultation document states that 'companies will be encouraged to demonstrate, through a written explanation in their directors' report and on their company's website, how the application of the Principles has resulted in improved corporate governance outcomes.'

BITC believes that it would encourage good practice if companies were not only asked to explain what they have done, but also what they intend to do in the future to improve corporate governance.

If the principles remain voluntary it will be difficult to try and improve company practice by being critical of companies that adopt the principles, otherwise they will simply choose not to adopt them. A possible way to promote good practice is to monitor the statements that companies make and produce and circulate a report which captures the very best examples, perhaps linking to an award.

As well as monitoring, it may be worth considering if there are other ways that government can encourage adoption/ good practice. For example, the government could require private companies that are tendering for government contracts to adopt the code.

9. Do you think that the correct balance has been struck by the Principles between reporting on corporate governance arrangements for unlisted versus publicly listed companies?

As highlighted in the introduction of this consultation paper the economic and social significance of private companies can be as great as publicly listed companies. They have the same responsibilities to society and so BITC would expect the reporting on corporate governance arrangements for unlisted companies to be comparable to that of publicly listed companies.

The guidance currently asks for a 'supporting statement' that describes 'how the application of the Principles has resulted in improved corporate governance outcomes' under an apply and explain approach. This feels like a similar level of reporting that is expected of listed companies: BITC hopes that this is the intention. However, there is the potential for companies to interpret this differently. The guidance for listed companies emphasises: including the context of the particular circumstances of the company; meaningful and high-quality reporting; to avoid boilerplate reporting and a tick box approach; and that explanations are a positive opportunity to communicate, not an onerous obligation.' To support the correct balance these should be emphasised in the Principles for large private companies.

10. We welcome any commentary on relevant issues not raised in the questions above.





We are surprised to see that one of the conditions for the new reporting requirement is for a company to have a turnover of £200 million and a balance sheet of more than £2 billion. The balance sheet figure seems particularly high especially for companies in certain sectors.

