KORN FERRY

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The Wates Corporate Governance Principles for Large Private Companies

Response to Consultation

Response from Korn Ferry

Introduction

We set out in this document our response to the consultation on The Wates Corporate Governance Principles for Large Private Companies.

The Principles are an appropriate set of high-level statements of good practice for large private companies to follow, and we believe the "apply and explain" approach is the right one. The accompanying guidance is also useful in setting the Principles in context.

Our answers to the specific consultation questions are set out on the following pages. We would like to highlight two particular points.

- First, we suggest that the guidance could be enhanced in certain places to set some minimum expectations in areas of specific importance. This would help make the guidance more robust, without resulting in a detailed checklist of provisions.
- Second, we also propose that when explaining their application of the Principles, companies are encouraged to include specific examples of their corporate governance practices. This is intended to ensure that disclosures are useful and informative in each company's context.

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Response to specific consultation questions

Q1	**Do the Principles address the key issues of the corporate governance of large private companies? If not, what is missing?**
	Yes, we agree that in general the Principles focus on the key corporate governance issues as they impact large private companies. The one obvious area which could be made more explicit is a recognition of the importance of the relationship between the board and the owners of the business. While the focus on wider stakeholder engagement in Principle Six is worthwhile (and understandable in the context of certain corporate failures), the Principles should also address how a board ensures that shareholder interests are taken into account. At many private companies, the largest shareholder(s) will serve on the board. In other cases, ownership will be more diverse and board representation less universal, and may take the form of a trustee or other family representative. How the governance structure reflects these arrangements – as well as providing appropriate checks and balances – is critically important.
Q2	**Are there any areas in which the Principles need to be more specific?**
	The Principles are deliberately written as high-level statements of good practice. Too much specificity risks introducing a level of detail which would be inappropriate in this context and potentially cause issues of application for some of the companies which are invited to report against the Principles. In addition, the chosen approach reduces the risk of the Principles being addressed as a formulaic box-ticking exercise – boards have to think about what would work best for the company and its stakeholders. However, we believe that there is a case for the accompanying guidance to be more helpful in certain areas, for example by setting down some examples of minimum expectations. Principle Two could reference a typical minimum board size, Principle Three could be more explicit on the need for boards to operate with audit and remuneration committees, and Principle Five could state clearly that a significant proportion of executive remuneration should be based on long-term performance. The purpose would be not to add unnecessary layers of detail, but to ensure suitable robustness for particularly important elements of the guidance. We also recommend that, for Principle Two, specific reference is made in the guidance to the board being comfortable that all directors have sufficient time to devote to their role.
Q3	**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?**
	The Principles are written in such a way that they can be applied by any large private company, regardless of ownership structure. We believe this is more appropriate than attempting to extend them to recognise the differences between various ownership models. What could, however, be of additional use is for the guidance to be expanded to include for each Principle examples of application for different types of company. Page 5 of the consultation document includes an example of how this could work for Principle Three. If this could be extended, then it would enhance the usefulness of the guidance as a practical tool for companies. A further area which potentially needs more explicit recognition in the guidance is of the

	differences between large private companies which have a very concentrated ownership structure (e.g. in one or two individuals) and those which have a more widely dispersed ownership base. Governance arrangements can and should vary significantly between these two types.
Q4	**Do the Principles give key shareholders sufficient visibility of remuneration structures in order to assess how workforce pay and conditions have been taken into account in setting directors' remuneration?**
	Principle Five states that executive remuneration structures should take into account pay and conditions elsewhere in the company, but this does not of itself mean that shareholders will have sufficient visibility of these structures or pay and conditions elsewhere in the company to enable them to reach an informed view of how well this has been done. For this to take place, the Principles need to go further and require a minimum level of disclosure around specific structures, and how they are aligned with workforce provision. This could be done by the inclusion of similar wording as set out in Provision 41 of the 2018 UK Corporate Governance Code. While we recognise that there is some understandable sensitivity regarding the extent to which details of executive remuneration should be disclosed by private companies, the inclusion of some information regarding broad executive pay structures and policies would be helpful. In addition to the question of workforce alignment, this would help the reader understand the extent to which pay has been designed to align with sustainable long-term success. It is important to understand the extent to which pay structures measure and reward performance over the long-term, and how remuneration is aligned to the strategic goals of the business.
Q5	**Should the draft Principles be more explicit in asking companies to detail how their stakeholder engagement has influenced decision-making at board level?**
	Principle Six makes it clear that a board should oversee meaningful engagement with stakeholders and have regard to that discussion when taking decisions. A company reporting against this Principle on the basis of "apply and explain" should be prepared to include supporting evidence which outlines what engagement has taken place and how it has influenced decisions.
Q6	**Do the Principles enable sufficient visibility of a board's approach to stakeholder engagement?**
	A company reporting in an appropriate level of detail against Principle Six should be in a position to explain how the board has engaged with stakeholders. In addition, the inclusion of examples in the company's reporting would give the reader an understanding of how this engagement works in practice.
Q7	**Do you agree with an 'apply and explain' approach to reporting against the Principles? If not, what is a more suitable method of reporting?**
	Yes, we believe "apply and explain" is appropriate. The Principles are at a suitably high-level that all large private companies should feel comfortable applying them (and, indeed, many may already in practice follow these Principles). Explaining how the Principles have been applied gives each company the flexibility to report in more detail in the context of their specific circumstances. As indicated above, providing specific examples in the reporting will help bring alive the disclosure and reduce the likelihood of uninformative "boilerplate." The guidance could be more prescriptive about the need for such examples to be provided.

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Q8	**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?**
	The issue of monitoring is important; otherwise the Principles risked being overlooked as time goes on. We recommend that further thought be given as to how best this is done. One option would be for the trade bodies of which the private companies are members to play an active role; an alternative would be for a credible third party to conduct a review on an annual or biannual basis of the extent to which the Principles have been adopted by large private companies, and how they have been applied. This would involve a consideration of reporting at a significant sample of companies, with particularly strong cases highlighted as examples of good practice.
Q9	**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?**
	We believe the Principles are relevant for large unlisted companies. A significantly more detailed document, such as the UK Corporate Governance Code, would not be appropriate for many private companies. However, as noted in the answer to Q2 above, there are instances where the accompanying guidance could set more specific minimum expectations.
Q10	**We welcome any commentary on relevant issues not raised in the questions above.**
	We have no additional comments to raise.

Korn Ferry
7 September 2018