Grosvenor Group response to the Consultation on the Wates Corporate Governance Principles for Large Private Companies

About us

Grosvenor Group is one of the world's largest privately-owned property companies. We develop, manage and invest in property in more than 60 cities around the world.

Our purpose is to deliver lasting commercial and social benefit. To live up to this ambition, we adopt an approach we call *Living Cities* which aims to guide and inspire our property activities. Achieving strong commercial returns enables our activities to be enduring. Applying our expertise with a far-sighted perspective to improve properties and places provides a positive impact on communities, neighbourhoods and cities.

We employ 560 people and manage £13.1 billion of assets.

Grosvenor is owned by the Trustees of the Grosvenor Estate, who hold the shares and other assets for the benefit of current and future members of the Grosvenor family.

Grosvenor has, since 2000, chosen to publish an Annual Report and Accounts consistent with its philosophy of transparency. In 2011 we published our first Environmental Review and we now publish information on our socio-economic impact in a Non-financial Data Report.

Further information on Grosvenor can be found at www.grosvenor.com.

Summary Response

Grosvenor's long history of managing our business through numerous social and political changes and economic cycles over the past three centuries provides us with a long-term perspective on, and approach to, corporate governance. We have drawn on this perspective and experience in providing our response to this consultation.

We believe that strong corporate governance practices are of critical importance to the long-term success of any organisation, regardless of ownership structure. As such, we are highly supportive of the Principles and associated guidance. We have, for many years, chosen to adopt strong corporate governance processes, defined largely by reference to the UK Corporate Governance Code, but ultimately adapted where appropriate to suit our specific circumstances. We therefore welcome the Principles and guidance as a useful tool and clear statement of good practice for corporate governance, specifically in large private companies.

We provide below responses to the specific questions set out in the consultation, but would draw out the following key observations by way of summary.

- We agree that is it important to avoid a "tick-box" approach to reporting. As such, we believe that private companies should be allowed the flexibility to report on their approach to corporate governance in a holistic way, providing explanation and drawing on examples which might demonstrate the combined application of a number of different Principles, rather than necessarily reporting on a Principle-by-Principle basis with a separate example for each Principle. The latter may, in some cases, lead to more of a "tick box" approach.

- Subject to the comment above, we agree that an 'apply and explain' approach is appropriate, given the wide range of different ownership structures for private companies, as this will allow each organisation to adopt and articulate an approach to application of the Principles that is most appropriate to its own particular circumstances.

- We believe it is important to have clarity on the respective roles and responsibilities of the board and the shareholders. Whilst the shareholders have a role in helping to define the company's purpose and values, the delivery – including through the company's strategy and by means of embedding and maintaining the culture through the organisation – should remain the responsibility of the board.

- At Grosvenor, we are conscious that the decisions we make affect, and our future success depends upon, both the people and communities where we operate, as well as our workforce, so we fully support the emphasis on stakeholder engagement set out in the Principles and guidance. We feel it is important to recognise that our stakeholders include future stakeholders and therefore whilst it is important to engage with existing stakeholders it is also important to consider the longer term impact, particularly upon the communities in which we operate, many years into the future.

- Whilst we support some monitoring of the application of the Principles, we would suggest that efforts should be made to ensure that any mechanism for monitoring is proportionate. In particular, we would suggest that the views of the audit profession are sought with a view to avoiding any ambiguity with respect to the extent to which auditors will be expected to take account of the application of the Principles in providing audit opinions.

- We could certainly see some merit in a cost/benefit scaled sampling approach by the FRC with the subsequent publication, on an unattributed basis, of its observations of good and bad practice in terms of the approach to reporting and believe this would be beneficial in terms of setting the bar.

CONSULTATION QUESTIONS

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

Yes, we believe that the Principles do address the key corporate governance issues for large private companies and we are supportive of the approach proposed. However, we wonder whether there may be merit in including a reference, in either Principle Four or the guidance thereto, to the importance of the role of an independent and effective external audit function.

We understand that the Principles apply to corporate entities which meet specific size criteria, but not to wholly owned groups where businesses of the same scale are divided between corporate entities each of which falls below the qualifying threshold. It seems an omission to allow businesses which seek to avoid applying the Principles to do so through mere fragmentation.

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

We believe it is important to have clarity on the respective roles and responsibilities of the board and the shareholders. Whilst the shareholders have a role in helping to define the company's purpose and values, the delivery – including through the company's strategy and by means of embedding and maintaining the culture through the organisation – should be the responsibility of the board. The guidance for Principle One would benefit from being reviewed with this in mind. By way of example, we would suggest that the references to "Key shareholders" be removed from the second and final sentences of the guidance for Principle One.

In respect of Principle Two, in the same way as the size of a board should be guided by the scale and complexity of the company, we believe that the balance of skills, backgrounds, experience and knowledge should also be guided by both the scale and complexity of the company and the diversity of its material stakeholders, particularly its workforce and its customers. We also wonder if there is a risk of this Principle and guidance being interpreted as requiring a ***standard*** balance of skills, backgrounds etc. rather than an ***appropriate*** balance of skills, backgrounds etc. and suggest this is clarified.

In respect of Principle Four, we wonder if the guidance could state that long-term value which the board should consider should include both value which accrues to the company and that which accrues to society more broadly. In addition, while it is important for all companies to focus on risk, the weighting of this in the guidance seems disproportionate to that given to value creation. Furthermore, the description of the approach to risk management might be improved by emphasising that this refers to those risks which might affect the company over both the short and long-term.

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?

In our view, on the whole and subject to the observations made elsewhere in this response, the Principles and guidance should be workable within the context of the various ownership structures of private companies.

It may, however, be helpful if the guidance could be clarified in respect of the expectations for a large private company which is a subsidiary, perhaps where elements of governance are carried out at a group level. This could be in a similar form to the guidance in the Q&A produced by BEIS on The Companies (Miscellaneous Reporting) Regulations 2018.

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?

In our view, the Principles and guidance set the right expectations and visibility will be available in the explanation provided under "apply and explain".

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

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

When read in conjunction with the new reporting requirements in The Companies (Miscellaneous Reporting) Regulations in respect of the factors to be considered by directors under s.172 of the Companies Act, our view is that the Principles and guidance broadly set the right expectations and visibility.

As mentioned in the summary above, at Grosvenor, we are conscious that the decisions we make affect, and our future success depends upon, both the people and communities where we operate, as well as our workforce, so we fully support the emphasis on stakeholder engagement set out in the Principles and guidance. We feel it is important to recognise that our stakeholders include future stakeholders and therefore whilst it is important to engage with existing stakeholders it is also important to consider how our activities may impact future stakeholders.

As such, we believe that Principle Six and the guidance supporting it would benefit from:

- expansion of Principle Six to include reference to future stakeholders;
- clarification of Principle Six by replacing "that discussion" with "that engagement and their interests";
- in the penultimate paragraph of the guidance, we suggest that "current and future" be

added between “identify the” and “stakeholder relationships”; and that “and the way in which it has considered how its activities may impact future stakeholders” be added to the end of the final sentence in that paragraph.

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?

Yes, particularly given the wide range of ownership structures for private companies, the broad nature of the Principles, backed up by the requirement to explain the application, is an appropriate and proportionate approach. However, as noted above, we believe that private companies should be allowed the flexibility and be able to report on their approach to corporate governance in an holistic way, providing explanation and drawing on examples which might demonstrate the application of a number of different Principles applied at the same time, rather than necessarily reporting on a Principle-by-Principle basis with a separate example for each Principle. The latter may in some cases lead to more of a “tick box” approach.

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?

Whilst we support some monitoring of the application of the Principles, we would suggest that efforts should be made to ensure that any mechanisms for monitoring are proportionate. In particular, we would suggest that the views of the audit profession are sought, with a view to avoiding any ambiguity with respect to the extent to which auditors will be expected to take account of the application of the Principles in providing audit opinions. We could certainly see some merit in a cost/benefit scaled sampling approach by the FRC with the subsequent publication, on an unattributed basis, of its observations of good and bad practice in terms of the approach to reporting and believe this would be beneficial in terms of setting the bar.

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?

Given the wide range of different types of ownership structure for large private companies, we believe that the balance is correct.

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

We are concerned that the reference in the guidance for Principle Three to “ensure the integrity of the information used when taking decisions” is likely to be very difficult, indeed impossible, and disproportionately expensive to achieve in practice and note that this is higher than required for audit purposes. We therefore suggest that further consideration is given to the wording of this section of the guidance.

As mentioned above, we are supportive of the Principles and guidance and commend the proposed approach which, on the whole and subject to the observations made elsewhere in this response, we believe should be workable within the context of the various ownership structures of private companies.

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Appendix – Wates Corporate Governance Principles

PRINCIPLE ONE – PURPOSE

An effective board promotes the purpose of a company, and ensures that its values, strategy and culture align with that purpose.

Guidance for consideration:

A well-defined purpose will help companies of all sizes and structures to articulate their business model, and develop their strategy, their operating practices and their approach to risk. In large private companies, key shareholders and the board should work in partnership to ensure the company operates with a clear sense of purpose. By effectively promoting a company's purpose, a board establishes a rationale for existence. Companies with a clear purpose often find it easier to engage with their customers, workforce and the wider public. An effective board promotes and develops its collective vision of the company's purpose, and can identify and explain how events or developments affecting the company's long-term success have been addressed.

A company's values should inform the expected behaviours of all company employees and the wider workforce. These values should be integrated into the different functions and operations of the business, including the organisation's internal audit, ethics, compliance and risk management functions.

A successful company should be directed by an effective board that develops a strategy and business model to generate sustainable value. A board is responsible for ensuring that its strategy is clearly articulated and implemented throughout the organisation, and that it, with the company's values, supports appropriate behaviours and practices within the organisation. This includes discouraging misconduct and unethical practices, and promoting behaviour that balances short-term needs with long-term aspirations.

A healthy company culture is critical to the company's competitive advantage, and vital to the creation and protection of long-term value. A board is responsible for fostering and maintaining the company culture. Culture in a corporate context can be defined as a combination of the values, attitudes and behaviours manifested by a company in its operations and relationships with its stakeholders. Key shareholders, the board and management must own and maintain a commitment to embedding the company's desired culture throughout the organisation.

PRINCIPLE TWO – COMPOSITION

Effective board composition requires an effective chair and a balance of skills, backgrounds, experience and knowledge, with individual directors having sufficient capacity to make a valuable contribution. The size of a board should be guided by the scale and complexity of the company.

Guidance for consideration:

The chair leads the board and is responsible for its overall effectiveness. The establishment of a balanced board promotes strategic decision-making and ensures the delivery of a company's strategy. An effective board embraces diversity, promotes accountability and incorporates objective thought that promotes appropriate constructive challenge and effective decision-making. The closely held nature of ownership within large private companies means directors are often required to have resilience and resolve to maintain objectivity in complex situations.

All directors should collectively demonstrate a high level of competence relevant to the company's business needs and stakeholders. Companies should demonstrate a commitment to the ongoing professional development of their board, and directors should engage with such opportunities.
Individual evaluation of directors should demonstrate whether each director continues to contribute effectively.

A board should give careful consideration to its size and structure so that it is sufficient to meet the strategic needs and challenges of the organisation. Board membership must be broad enough to provide for an appropriate degree of challenge and analysis, but agile enough to enable efficient and effective decision-making. An effective board should be able to demonstrate that there has been a considered effort to establish an appropriate balance of expertise, diversity and objectivity within its membership. Diverse characteristics a board may consider include, but are not limited to, gender, social and ethnic backgrounds, and cognitive and personal strengths.

PRINCIPLE THREE – RESPONSIBILITIES

A board should have a clear understanding of its accountability and terms of reference. Its policies and procedures should support effective decision-making and independent challenge.

Guidance for consideration:

An effective board should establish and maintain corporate governance practices that provide clear lines of accountability and responsibility to support effective decision-making. A company's constitutional documents should set out policies and procedures that govern the internal affairs of the company. These include matters relating to the authority, role and conduct of directors, and in some companies may extend to shareholder agreements that set out the rights and responsibilities of shareholders and provide minority shareholder protection.

Strong, accountable systems for decision-making and the delineation of responsibilities ensure the company's key shareholders, board and senior management have clearly defined roles and decision-making powers, with conflicts of interest appropriately managed. Such clear corporate governance practices give insight into the stewardship of the company, and how the company's leadership works together to deliver long-term value. Corporate governance can guide decision-making powers, detail succession planning, and give clarity on the engagement between the company and its owners, including engagement with a parent company where the company is a subsidiary. Such processes could provide for the establishment of advisory or board committees (including audit, risk, nomination, remuneration and/or sustainability committees) with clear terms of reference, as necessary.

Effective corporate governance practices, such as the provision of independent challenge in board decision-making, should mitigate the risk of unfettered powers vested in individuals. Independent challenge can allow for industry experience and objective decision-making, encouraging constructive problem-solving that benefits companies in the long term. Companies should consider the value that independent representation can deliver in the context of overall board composition and company structure, and seek opportunities to promote independent thought in the decision-making process. This should include identifying and managing any potential conflicts of interest that could compromise objective decision making. The provision for independent challenge should reflect the unique needs of a company.

A board should have confidence in the integrity of the information used for decision-making and reported by a company. A company should establish formal and robust internal processes to ensure systems and controls are operating effectively, and that the quality and integrity of information provided to the board is reliable, enabling directors to monitor and challenge the performance of the company. Boards rely on a broad range of information sources, including but not limited to:

- financial reporting;
- key performance indicators;
- workforce data;
- environmental data;
- stakeholder engagement feedback; and
- consumer data.

In some cases, this will require the design and implementation of appropriate internal control systems (such as an internal audit function). Regardless of the mechanisms put in place, a board must be satisfied there are sufficient checks and balances to ensure the integrity of the information used when taking decisions.

PRINCIPLE FOUR – OPPORTUNITY AND RISK

A board should promote the long-term success of the company by identifying opportunities to create and preserve value, and establishing oversight for the identification and mitigation of risks.

Guidance for consideration:

A board should consider and assess how the company creates and preserves value over the long term. This requires boards to consider both tangible and intangible sources of value, and the stakeholders that contribute to it. This should include an assessment of risk mitigation, as well as identifying opportunities for innovation and entrepreneurship.

A board has responsibility for an organisation's overall approach to strategic decision making and risk management. This requires oversight of risk and how it is managed, and appropriate accountability to stakeholders, particularly with regards to conflicts of interest.

These responsibilities include:

- developing appropriate risk management systems that identify the risks facing the company and enable the board to make robust decisions concerning the principal risks;
- determining the nature and extent of the principal risks faced and those risks which the organisation is willing to take in achieving its strategic objectives (determining its 'risk appetite');
- agreeing on how the principal risks should be managed or mitigated to reduce the likelihood of their incidence or magnitude of their impact; and
- establishing clear internal and external communication channels on the identification of risk factors.

PRINCIPLE FIVE – REMUNERATION

A board should promote executive remuneration structures aligned to the sustainable long term success of a company, taking into account pay and conditions elsewhere in the company.

Guidance for consideration:

Appropriate and fair levels of remuneration are imperative to enable companies to secure high-quality directors and senior management. Alignment between the remuneration of directors and senior management and company performance should demonstrate a shared purpose and common objectives.

Director and senior management remuneration should be developed around principles that align with the company's culture, values and long-term success. These include a considered assessment of the company's response to matters such as its gender pay gap reporting.

The board should establish a clear policy on the transparency of remuneration structures that enable effective accountability to key shareholders. Remuneration, including benefits, for directors and senior management should consider the broader operating context of the company, including the pay and conditions of the wider workforce.

PRINCIPLE SIX - STAKEHOLDERS

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 board has a responsibility to foster good stakeholder relationships based on the company's purpose.

Guidance for consideration:

Large private companies create their own social, economic and environmental impact, but are also affected by changes to their operating environment. Sustainable business benefits wider society, and large companies have a responsibility to create and sustain long-term value for a variety of stakeholders. This could include consideration of how a company's activities may impact future stakeholders.

The board should present a fair, balanced and understandable assessment of the company's position and prospects, and make this available to its material stakeholders on an annual basis.

A company should identify the stakeholder relationships that are integral to its ability to generate and preserve value. 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.

For many large private companies, their largest material stakeholder is their workforce. Companies should develop methods that enable them to engage meaningfully with their workforce and utilise such forms of engagement when taking decisions.