



1 January 2021

# Governance changes at the FRC

## Feedback Statement

**to Consultation on consequential amendments to FRC Procedures, September 2020.**



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Registered in England number 2486368. Registered Office: 8th Floor, 125 London Wall, London EC2Y 5AS

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## Introduction

1. In September 2020, the FRC proposed various consequential amendments to the Conduct Committee's Operating Procedures and various Enforcement Procedures, arising out of intended changes to the FRC's governance structure due to take effect on 1 January 2021<sup>1</sup> by our consultation document Governance changes at the FRC Consultation on consequential amendments to FRC Procedures. The purpose of this feedback statement is to summarise the responses to that consultation and provide our feedback on the consultation responses.
2. The consultation document asked respondents if they had or foresaw any objection to any of the proposed consequential amendments on the grounds of fairness or due process, or otherwise – and if so, to provide reasons and any alternative proposals.

## Responses received

3. The period to respond closed on 30 November 2020 and we received 5 responses to the consultation: from 2 firms, one chartered body, a fellow regulator and a stakeholder group. All responses are published on the FRC website and key comments are summarised below.

## Summary of responses received

4. Four of the five respondents commented on and indicated their support or no objection to the proposed consequential amendments to the governance changes. In particular, Deloitte supported the simplification of the FRC's structures with clearer accountability and enhanced transparency to support the public interest and PwC welcomed the FRC's progress in implementing some of Sir John Kingman's recommendations and supporting the drivers behind the proposed changes including enhanced effectiveness, speed and responsiveness and enhanced transparency of the investigation and enforcement process. The fifth respondent (the **Insolvency Service**) made no comment as to the consequential governance related amendments and was limited to the separate issue of the removal of insolvency misconduct from the Accountancy Scheme.
5. Three respondents (**PwC**, **ACCA** and the **Insolvency Service**) commented on (and were supportive of the removal of insolvency misconduct from the scope of the Accountancy Scheme, noting this amendment resolved the risk of dual regulation which could otherwise undermine consistent outcomes within the insolvency regime and give rise to scope for overlap and conflicting regulatory outcomes.
6. Two respondents commented on the retention of investigation opening decisions by the Board. **PwC** invited the publication of the FRC's proposed guidance covering the circumstances in which decisions and functions relating to investigations will be retained by the Board and recommended that the Guidance clearly define 'public interest' and

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<sup>1</sup> Save in respect of the Supervision Committee, which is intended to be established with effect from 1 April 2021. This does not affect the consequential changes made to the procedures put to consultation.

cases of 'particular significance' as well as cover how the Board will exercise 'appropriate executive responsibility' and what constitutes audit quality as well as how it is measured. **ACCA** commented that the FRC Board should guard against the perception that its involvement in individual cases or particular matters hinders fairness and impartiality.

7. One respondent (**Deloitte**) commented on the removal of the Financial Reporting Review Panel, given that panel's deep expertise in accounting matters and noted that it will be important that the Conduct Committee will be able to draw on an appropriate range of technical expertise, including in areas such as narrative reporting and corporate governance.
8. One respondent (**PwC**) proposed that terms of reference be published for the Advisory Panel and Senior Advisors in order to address how potential conflicts of interest will be avoided or managed to ensure impartiality and independence and addressing transparency and balance in the composition of the Advisory Panel to ensure a wide range of perspectives including accountants, auditors and preparers and users of accounts.
9. One respondent (**PwC**) noted (amongst various helpful drafting comments) that the Accountancy Scheme and Actuarial Scheme do not make explicit reference to the Advisory Panel replacing the Case Management Committee and that it was not clear why this was.
10. One respondent (the **UK Shareholder Association**) suggested that those charged with governance in the proposed new structure maintain a watchfulness for any resulting unintended consequences, especially any that indicate any loss of the strengths of the FRC previously noted in the Kingman and Brydon Reviews.
11. Two respondents looked forwards to further clarification from the FRC of future changes and implications: **Deloitte**, in relation to mechanisms to interact with audit firms including appeals; and **ACCA**, in relation to future continued engagement and constructive dialogue between the FRC and participating bodies in relation to the Accountancy Scheme and the Audit Enforcement Procedure.

## **FRC response**

12. The attached updates to the following procedures have been incorporated and will take effect from 1 January 2021.
13. We considered and accepted or made alternative amendments in relation to the following suggestions:
  - i) A copy of the Guidance to the Board on the retention of investigation opening decisions, which defines the public interest (consistent with the already published FRC approach to the public interest [here](#)) and cases of particular significance is attached.

14. Where we have not carried through proposed amendments or comments, we respond as follows:

- i) The Board Guidance on the retention of investigation opening decisions does not address the oversight of the Executive; this is a matter for the Schedule of Matters Reserved to the Board and consequential delegations to the Conduct Committee, as reflected in the published FRC Governance Handbook. Nor does it address audit quality or appropriate measures; we consider these are addressed in the applicable legislation<sup>2</sup>, published audit standards and regular publications by our Audit Quality Review Team regarding individual firm reviews and thematic reviews ([here](#)) and Enforcement Division including its [Annual Enforcement Review](#).
- ii) The FRC's open recruitment programme for the Senior Advisors and Advisory Panel has carefully considered the appropriate skills and diversity needed to address a wide range of perspectives including accountants, auditors and preparers and users of accounts. We will keep under review publication of terms of reference for those positions in due course.
- iii) The Case Management Committee's express functions under the Accountancy and Actuarial Schemes (previously paragraph 4 of the replaced Schemes) have been removed to allow more agile progress of investigations. Their monitoring and oversight of investigations (formerly para 4(3)(1)) is retained by the Board's overall oversight of investigations, delegated as appropriate to the Conduct Committee and the Board and Conduct Committee can request such information from the Executive (formerly para 4(iii) as they may wish). The remainder of the Case Management Committee's functions (formerly para 4(3)(ii), (iv) and (v)) remain available to the Executive and non-executive decision makers through the availability of the Senior Advisors and Advisory Panel but are no longer included as a mandatory step in the Scheme process.

15. *Miscellaneous points/points of clarification*

- i) The FRC's published [Code of Conduct](#) (presently applicable to all executive and non-executive members of the FRC) addresses the FRC's detailed policy and guidance on conflicts of interest. With effect from 1 January, it will apply to the new external appointees contemplated by the governance changes, including Advisors and Senior Advisors.
- ii) The published [Conduct Committee Terms of Reference](#) (and remainder of the Governance Handbook) are in the process of being updated to reflect the proposed governance changes with effect from 1 January 2021.

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<sup>2</sup> [Regulation \(EU\) No 537/2014](#); [SATCAR](#)

- iii)* In relation to the decision to publish summary findings of a Corporate Reporting Review, with the company's agreement (Annex 4, paragraph 56) PwC invited clarification on what criteria the FRC will apply when making the decision to publish. The FRC's intention would be to routinely publish material findings and other outcomes of such Reviews, subject to the applicable Company's permission.
- iv)* The FRC is currently working with Government in relation to a wide number of proposals arising out of recent independent reviews, including Sir John Kingman's Independent Review of the Financial Reporting Council and Sir Donald Brydon's Review on the Quality and Effectiveness of Audit. We are currently reviewing our interaction with Audit firms and questions of engagement with the Accountancy profession accordingly. We welcome the engagement we continue to have with the firms and the professions as we continue to develop policy around effective regulation in these areas.

**1 January 2021**