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By E-mail to: codereview@frc.org.uk

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Dear Mr Styles

UK Corporate Governance Code (the Code) – Consultation document on proposed Code amendments focused on internal control, assurance and resilience

I am writing further to the above. Thank you for the opportunity to comment in response to the consultation, and for the various FRC engagement and update discussions to this point.

Ahead of the FRC's 13 September 2023 response deadline, I set out below various comments and reflections on behalf of Primary Health Properties PLC (PHP), which I hope are helpful as you shape and conclude update to the Code:

- Provision 26: the rationale for incorporation of the *Audit Committees and the External Audit: Minimum Standard* is clear and understood. That said, it is possible that the proposed adjustments to Provision 26 go somewhat too far in their expectations of audit committees. In particular, whilst audit committees, rightly, follow tender requirements, they are not in a position to influence audit market diversity and it may be helpful to clarify that this is not the expectation
- Given the importance of progress and oversight of the environmental, social and governance (ESG) agenda, of which sustainability forms a key part, PHP operates a main board committee specifically focused on this area. Our board considers this appropriate given the nature of PHP's business. We understand the new requirement in Provision 26 for our audit committee to monitor the integrity of narrative reporting, including sustainability matters, and reviewing any significant reporting judgements – indeed, this represents a codification of activity in which the audit committee is already engaged – but would not wish the amended Code to be construed as prescribing against a dedicated ESG committee, and again would suggest thought is given to clarification on this point

- Provision 30: the new requirement for the board to make, in the annual report, a declaration of whether it can reasonably conclude that the company's risk management and internal control systems have been effective throughout the reporting period is logical. We do not consider it sensible or additive for this declaration to apply to the period up to the annual report: this does not align with the period to which the report as a whole is concerned and is likely to prove problematic in finalizing the report. We would therefore think it sensible that the new requirement applies to the reporting period, only
- Provision 15: it would be helpful to have clarification on what a "significant" external appointment comprises, and no doubt the FRC will provide guidance to this effect. We understand that each company's context will be relevant and that providing an exhaustive definition will accordingly not be possible. This raises an interesting issue which we and other companies continue to encounter, namely the proper application of the "comply or explain" approach in some proxy advisers' assessments and recommendations on this point. There is an obvious difference between, for example, an external appointment to the board of a cash shell, requiring minimal time commitment, and a board role at an active operating business. This distinction is not always recognized, and we hope the new provision will support a sensible review of the facts of any particular case.
- Provision 20: we note that this provision remains as is. Whilst the provision does notionally allow for some flexibility around the nine-year rule where the chair was an existing non-executive on appointment, we feel there is an opportunity to go further here: the rule operates to effectively remove from consideration for the chair role a non-executive who might otherwise be an ideal candidate for that role, solely on the basis that he or she may already have sat on the board for a period at the time the search process takes place. It is certainly the view of a number of brokers and investment banks that this is undesirable and can be at odds with companies' best interests. We note that this is not the approach in the US, at a time when every effort should be made to attract investment to the London market. In these specific circumstances, we consider it would be sensible to reflect on whether the rule might be amended to effectively re-start the nine-year window with effect from an existing non-executive's appointment as chair. This would not compromise the core objective of board independence, at the same time as taking due recognition of the value of experience in board leadership and value creation in today's world.

Thank you again for the opportunity to respond, and we look forward to continuing to work with the Code and accompanying guidance to best support the highest standards of governance.

Yours sincerely



Primary Health Properties PLC