

Public Concern at Work

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Public Concern at Work's response to the consultation "*Proposed Revisions to the UK Corporate Governance Code*"

1. We welcome the opportunity to make this short response to the consultation. Our submission will focus on how the proposed amendments will impact on whistleblowing and, in particular, the transposition of Current Code Provision C.3.5 into the proposed Principles (B, D), Provisions (3) and Guidance (32, 33).
2. Whilst these comments stray outside the discreet questions contained in the Consultation document, we consider that they nevertheless go to the heart of the Code's effectiveness with respect to whistleblowing, and can be dealt with in a succinct manner so as not to be unduly burdensome on the post-consultation review.

Introduction

3. Public Concern at Work ("PCaW") is a charity which has been the UK's leading authority on whistleblowing for the last 25 years. Our aim is to promote the concept of "stop harm sooner....by speaking up safely". The Charity provides free, confidential, advice to around 2,000 whistleblowers each year whilst also supporting hundreds of organisations (including many to which the UK Corporate Governance Code applies) to ensure their arrangements are trusted and effective. We currently work with many regulators, professional bodies, commercial, public sector and voluntary organisations including: CIPD, AAT, General Medical Council (GMC), The Law Society, John Lewis Partnership, Home Retail Group, Barclays, the Bank of England, ITV and the British Red Cross.
4. These two complementary streams of work give us a unique perspective on whistleblowing – including the challenges faced by individuals in speaking up, and those experienced by organisations in listening to and addressing concerns. PCaW has employed this experience in a wide array of policy work which has shaped the frameworks in which individuals raise concerns, and how organisations handle them. This includes: helping to draft the primary piece of legal protection for whistleblowers, the Public Interest Disclosure Act; establishing the Whistleblowing Commission which developed the Code of Practice, a guide used by many organisations in creating their whistleblowing processes; ongoing involvement in sectoral developments within the NHS and Financial Services; and long-standing collaboration with government on numerous initiatives which have touched on the wider world of whistleblowing.

Response:

5. We welcome the two main changes relating to whistleblowing proposed in the consultation:
 - a. broadening the scope of issues about which there should be effective arrangements for staff to raise concerns from financial reporting to include wider concerns;
 - b. making the responsibility for review of these arrangements a responsibility of Boards rather than Audit Committees.
6. We also welcome the fact that these specific requirements relating to whistleblowing are set in the context of a requirement for Boards to think about how they actively gather views of the workforce and put in place the right culture.

Making whistleblowing work

7. We believe that these proposals will help to enhance the governance of individual companies and contribute to the broader public interest by making it more likely that companies will be able to stop harm sooner which may be occurring to their stakeholders as a result of employees and workers being able to speak-up more safely.
8. **Suggested amendments** We do, however, believe that two further amendments would make it more likely that the revised Code will achieve its intended outcomes:

Principle D

9. Principle D includes the following sentence:

“The workforce should be able to raise concerns *in relation to management and colleagues* where they consider that conduct is not consistent with the company’s values and responsibilities”. ***(emphasis added)***

10. We believe the words highlighted above are an unnecessary limitation on the scope of whistleblowing arrangements and that it would be helpful to delete them.

Provision 3

11. Provision 3 deals both with the broad topic of gathering views of the workforce and the specific topic of raising concerns confidentially and, possibly, anonymously. Our many years of experience of advising organisations and individual whistleblowers has led us to conclude that these two topics are very different in nature and as such require very distinct procedures if they are both to be effective. We have seen many difficulties in practice from the conflation of these topics. For this reason, we recommend that Provision 3 is split into two separate Provisions.
12. If our recommendation is accepted, we believe that there could helpfully be some consequential amendments to the Guidance on Board Effectiveness where we believe that the current drafting of the section “Relations with the Workforce and Wider Stakeholders” also co-mingles the two topics in a way which we believe could be unhelpful. We would be happy to work with you on specific drafting changes to the Guidance.