66. It is vital that non-executive directors make sufficient time available to discharge their responsibilities effectively. They should devote time to developing and refreshing their knowledge and skills, including those of communication, to ensure that they continue to make a positive contribution to the board. Being well-informed about the company, and having a strong command of the relevant issues, will generate the respect of the other directors.

67. Non-executive directors should insist on receiving high-quality information sufficiently in advance so that there can be thorough consideration of the issues prior to, and informed debate and challenge at, board meetings. They should expect this information to:

    - be accurate, clear, comprehensive and up-to-date;
    - contain a summary of the contents of any paper; and
    - inform the director what is expected of them on that issue.

    Non-executive directors should seek clarification or amplification where they consider the information provided is inadequate or lacks clarity.

68. To fulfil their duties, non-executive directors should take into account the views of shareholders, the workforce and other stakeholders, because these views may provide different perspectives on the company and its performance. They should avail themselves of opportunities to meet major shareholders, key customers and members of the workforce from all levels of the organisation.

BOARD SUPPORT AND THE ROLE OF THE COMPANY SECRETARY

69. The company secretary is responsible to the board for ensuring that board procedures are complied with, advising the board on all governance matters, and should support the chair and help the board and its committees to function efficiently.

70. Under the direction of the chair, the company secretary's responsibilities include ensuring good information flows within the board and its committees and between senior management and non-executive directors, as well as facilitating induction and assisting with professional development as required. They should arrange for the company to provide the necessary resources for developing and updating its directors' knowledge and capabilities. This should be in a manner that is appropriate to the particular director, and which has the objective of enhancing that director's effectiveness in the board or board committees, consistent with the results of the board's evaluation processes.

71. It is the responsibility of the company secretary to ensure that directors, especially non-executive directors, have access to independent professional advice at the company's expense where they judge it necessary to discharge their responsibilities as directors of the company. Committees should be provided with sufficient resources to undertake their duties.

72. The company secretary should report to the chair on all board governance matters. This does not preclude the company secretary also reporting to the chief executive in relation to their other executive management responsibilities. The remuneration of the company secretary should be determined by the remuneration committee.

73. Assisting the chair in establishing the policies and processes the board needs in order to function properly is a core part of the company secretary's role. The chair and the company secretary should periodically review whether the board and the company's other governance processes, for example board and committee evaluation, are fit for purpose,

and consider any improvements or initiatives that could strengthen the governance of the company.

74. The company secretary's effectiveness can be enhanced by building relationships of mutual trust with the chair, the senior independent director and the non-executive directors, while maintaining the confidence of executive director colleagues. They are in a unique position between the executive and the board and well placed to take responsibility for concerns raised by the workforce about conduct, financial improprieties or other matters.

3. COMPOSITION, SUCCESSION AND EVALUATION

ROLE OF THE NOMINATION COMMITTEE

75. The nomination committee should be responsible for board recruitment. The process should be continuous and proactive, and should take into account the company's agreed strategic priorities. The aim should be to secure a boardroom which achieves fresh input and thinking, and the right balance between challenge and teamwork, while maintaining a cohesive board.

76. The nomination committee should be clear about the values and behaviours expected when recruiting new directors and senior management and build a proper assessment of this into the recruitment process. It should evaluate the balance of skills, experience, knowledge and diversity on the board and, in the light of this evaluation, prepare a description of the role and capabilities required for a particular appointment. This should include an assessment of the time commitment expected, recognising the need for availability in the event of crises.

77. The terms and conditions of appointment of non-executive directors, including the chair, should be made available on the company website. Letters of appointment should set out the expected time commitment and also indicate the possibility of additional commitment when the company is undergoing a period of particularly increased activity, such as an acquisition or takeover, or as a result of some major difficulty with one or more of its operations.

78. Chairs and non-executive directors should undertake that they will have sufficient time to meet what is expected of them. Their other significant commitments should be disclosed to the board before appointment, with a broad indication of the time involved. Changes to such commitments should be approved by the board as they arise. The other commitments of the chair and any impact arising from changes to those commitments should be explained in the annual report. Taking account of the respective time commitments involved, the nomination committee may wish to consider whether to set an upper limit on the number of other non-executive appointments it considers the chair and other non-executives may take on without compromising their effectiveness.

79. Appointing directors who are able to make a positive contribution is one of the key elements of board effectiveness. Directors will be more likely to make good decisions and maximise the opportunities for the company's success in the longer term if the right skill-sets and a breadth of perspectives are present in the boardroom. This includes independence of mind, diversity and a range of skills, experience and knowledge. Non-executive directors should all possess critical skills of value to the board and relevant to the challenges and opportunities facing the company.

80. There is considerable evidence that diversity in the boardroom has a positive effect on the quality of decision-making and company performance. Nomination committees should take positive steps to increase levels of diversity both at board-level and in the executive pipeline. Building the executive pipeline is vital to progress and to increase levels of diversity amongst those in senior positions.

81. The nomination committee should take an active role in setting and meeting diversity objectives and strategies for the company as a whole and in monitoring the impact of diversity initiatives. Examples of the type of actions the nomination committee could consider encouraging include:

- a commitment to increasing the diversity of the board by setting stretching targets;
- dedicated initiatives with clear objectives and targets, for example in areas of the business that lack diversity;
- mentoring and sponsorship schemes;
- a commitment to more diverse shortlists and interview panels; and
- positive action to encourage more movement into non-traditional roles, for example women in finance.

82. It is important to consider a diversity of personal attributes among board candidates, including intellect, critical assessment and judgement, courage, openness, honesty and tact; and the ability to listen, forge relationships and develop trust. Diversity of psychological type, background, gender and ethnicity is important to ensure that a board is not composed solely of like-minded individuals. A board requires directors who have the intellectual capability to suggest change to a proposed strategy, and to promulgate alternatives.

83. Given the importance of committees in many companies' decision-making structures, it will be important to recruit non-executive directors with the necessary technical skills and knowledge relating to the committees' subject matter, as well as the potential to assume the role of committee chair.

SUCCESSION PLANNING

84. The chair's vision for achieving the optimal board composition will help the nomination committee review the skills required, identify the gaps, develop transparent appointment criteria and inform succession planning. The nomination committee should periodically assess whether the desired outcome has been achieved, and propose changes to the process as necessary. There are risks of becoming too reliant on the skills of one individual. Discussions on tenure at the time of appointment will help to inform and manage the long-term succession strategy. Board effectiveness and succession should be discussed with shareholders.

85. Executive directors may be recruited from external sources, but companies should also develop internal talent and capability. Initiatives might include middle management development programmes, facilitating engagement from time to time between middle management and non-executive directors, as well as partnering and mentoring schemes.

86. Talent management can be a strong motivational force for those who wish to develop their career within the company and achieve senior positions and can provide the nomination committee with a variety of strong candidates. Nomination committees should consider taking a more active interest in how talent is managed throughout the organisation.

87. Good board appointments do not depend only on the nomination committee. A prospective director should carry out sufficient due diligence to understand the company and its culture, appreciate the time commitment involved, and assess the likelihood that they will be able to make a positive contribution.

Succession plans should consider different time horizons

- contingency planning – for sudden and unforeseen departures;
- medium-term planning – the orderly replacement of current board members and senior executives (e.g. retirement); and
- long-term planning – the relationship between the delivery of the company strategy and objectives to the skills needed on the board now and in the future.

88. More consideration should be applied to the nature, variety and frequency of interaction between the board and aspiring board candidates at varying levels of management.

89. Boards as a whole should be better informed about the link between diversity, strategy and business value. Diversity should be regarded as a broad concept in order to encourage diverse thinking and to avoid the dangers of 'group think'. Succession plans should include objectives to increase diversity in the boardroom and build diversity in the executive pipeline.

EVALUATING THE PERFORMANCE OF THE BOARD AND DIRECTORS

90. Boards continually need to monitor and improve their performance. This can be achieved through board evaluation, which provides a powerful and valuable feedback mechanism for improving board effectiveness, maximising strengths and highlighting areas for further development. The evaluation process should aim to be objective and rigorous.

91. Like induction and board development, evaluation should be bespoke in its formulation and delivery. The chair has overall responsibility for the process, and should select an appropriate approach, involving the senior independent director as appropriate. The senior independent director should lead the process which evaluates the performance of the chair and in some circumstances may lead the entire evaluation process. The chair should consider how to obtain input from the workforce and other stakeholders on the board's performance. Chairs of board committees should be responsible for the evaluation of their committees.

92. Board evaluations should inform and influence succession planning. They are an opportunity for boards to assess their composition and agree plans for increasing diversity. They also help companies identify when new board appointments may be needed and the types of skills that are required to maximise board effectiveness.

93. The chair is responsible for acting on the outcome of the board evaluation, which should also be shared with the whole board as appropriate. The outcome should be fed back into the board's work on composition, the design of induction and development programmes, and other relevant areas. It may be useful for a company to have a review loop to consider how effective the board evaluation process has been and how well the outcome has been acted upon. The chair is encouraged to give a flavour of the board evaluation process in their statement in the annual report.

94. The Code recommends that premium-listed companies have externally-facilitated board evaluations at least every three years. External facilitation can add value by introducing a fresh perspective and new ways of thinking. It may also be useful in particular circumstances, such as when there is a new chair, if there is a known problem around the board table requiring tactful handling; or there is an external perception that the board is, or has been, ineffective. The chair should consider with the external facilitator whether it would be appropriate to obtain feedback from the workforce and other stakeholders on the performance of the board and individual directors.

95. Whether facilitated externally or internally, evaluations should explore how effective the board is as a unit, as well as the quality of the contributions made by individual directors. Some areas which may be considered, although they are neither prescriptive nor exhaustive, include:

- the mix of skills, experience, knowledge and diversity on the board, in the context of the challenges and opportunities facing the company;
- clarity of, and leadership given to, the purpose, direction and values of the company;
- succession and development plans;
- how the board works together as a unit, and the tone set by the chair and the chief executive;
- key board relationships, particularly chair/chief executive, chair/senior independent director, chair/company secretary and executive/non-executive;
- effectiveness of individual non-executive and executive directors;
- clarity of the senior independent director's role;
- effectiveness of board committees, and how they are connected with the main board;
- quality of the general information provided on the company and its performance;
- quality of papers and presentations to the board;
- quality of discussions around individual proposals;
- process the chair uses to ensure sufficient debate for major decisions or contentious issues;
- effectiveness of the company secretary/secretariat;
- clarity of the decision processes and authorities;
- processes for identifying and reviewing risks; and
- how the board communicates with, and listens and responds to, shareholders and other stakeholders.

4. AUDIT, RISK AND INTERNAL CONTROL

96. While the board may make use of committees to assist its consideration of audit and risk, it retains responsibility for, and makes the final decisions on, all of these areas. The chair should ensure that sufficient time is allowed at the board for discussion of these issues. All directors should familiarise themselves with the relevant Principles and Provisions of the Code, the related Guidance on Audit Committees and Guidance on Risk Management, Internal Control and Related Financial and Business Reporting, and any relevant regulatory requirements.
97. Where requested by the board, the audit committee should provide advice on whether the annual report and accounts, taken as a whole, is fair, balanced and understandable and provides the information necessary for shareholders to assess the company's position and performance, business model and strategy.

Viability Statements

98. The period selected for the viability statement often appears to be based on the company's medium-term business plan. However, the *Guidance on Risk Management, Internal Control and Related Financial and Business Reporting* suggests that other factors should be taken into account, for example investment and planning periods, the board's stewardship responsibilities, the nature of the business and its stage of developments and previous statements made, especially in raising capital.

99. The factors considered will clearly depend on the circumstances and maturity of the relevant company and the industry that it operates in. Industries such as mining and property investment companies typically have longer term investment strategies and funding arrangements. Companies should tailor their approach to their specific circumstances and planning cycles.

100. Companies should consider developing their viability statements in two stages, firstly by considering and reporting on their longer-term prospects taking into account the company's current position and principal risks, and then by stating whether they have a reasonable expectation that the company will be able to continue in operation and meet its liabilities as they fall due over the period of their viability assessment, drawing attention to any qualifications or assumptions as necessary.

101. Good practice examples clearly explain the underlying analysis that support the statement. They should also include proper explanation of how the company has carried out its analysis.

5. REMUNERATION

OVERSIGHT OF WORKFORCE PAY, CONDITIONS AND POLICIES

102. The board has ultimate responsibility for ensuring workforce remuneration, incentives and other workforce policies support the long-term success of the company and promote its values.

103. This means overseeing not only pay, conditions and incentives but also other policies that have an impact on the experience of the workforce and drive behaviours. This includes policies around recruitment and retention, promotion and progression, performance management, training and development, reskilling and flexible working.

104. Boards can choose to delegate responsibility for overseeing wider workforce remuneration, incentives and workforce policies to the remuneration committee or, where appropriate, another committee with relevant responsibilities, for example, a sustainability committee or a corporate responsibility committee. Where the board elects to do this it should ensure the committees adopt an integrated approach that joins up oversight of wider workforce pay and policies with the remuneration committee's consideration of executive remuneration.

105. On workforce pay, one approach might be for the board or its delegated committee to review and endorse clear principles for pay and reward across the organisation and satisfy itself that management implements these properly and that incentives drive behaviour consistent with values. Examples of reward principles companies might consider include equal pay, security, predictability of income, market competitiveness and reward for contribution. Boards can then establish a baseline and monitor application of the principles and progress towards objectives.

106. Boards can act as a unifying focal point on workforce matters that has the potential to help companies join up the different aspects of their overall workforce value proposition, ensure the workforce feels it has had a say on matters that affect it and explain what it has to offer current and prospective workers.

Possible questions for boards

- How well are our values and expected behaviours embedded in all our HR processes from recruitment to exit interviews?
- How does the company structure remuneration and other forms of reward to produce appropriate incentives?
- Have we established clear principles for pay across the organisation against which we can justify and benchmark pay policies and outcomes?
- Can we articulate our approach to investing in and rewarding our workforce? Have we taken workforce views and priorities into account in developing our approach?
- Does the balance between financial and non-financial incentives support the desired culture?
- Are behavioural objectives included in leadership and employee goals and are behaviours formally assessed as part of performance review activity?
- Have we considered whether executive pay incentives or those of other employees could undermine culture?
- What are we doing to address gender pay gaps?

ROLE OF THE REMUNERATION COMMITTEE

107. The remuneration committee has delegated responsibility for designing and determining remuneration for executive directors, the chair and the next level of senior management. It should ensure that potential conflicts are recognised and managed and that no individual is involved in decisions relating to their own remuneration.

108. The remuneration committee should consider executive remuneration in the context of the approach to pay and conditions applied across the company's workforce as a whole and ensure that the total rewards potentially available are not excessive. They should avoid designing pay structures based solely on benchmarking to the market or the advice of remuneration consultants.

109. It is vital that the remuneration committee is alive to the risk of incentives encouraging behaviours that are to the long-term detriment of the company and should consider ways to counteract this, for example the build-up of significant shareholdings for the long-term. Packages that are structured to ensure exposure to the long-term share price over five to seven years and for two to three years after leaving the company can support alignment with shareholders. Releasing shares for sale on a phased basis rather than block release, e.g. on retirement or on leaving the company, can also encourage a focus on sustainable performance.

110. The Code requires remuneration schemes to provide discretion to override formulaic outcomes. The remuneration committee should ensure it recommends adjusting pay awards where the outcome otherwise will not be aligned to individual performance or will not deliver the policy intentions. For example to take account of share price growth, the impact of a share repurchase scheme or a government support initiative. This should be clearly disclosed. The remuneration committee should consider whether a cap on executive rewards is appropriate and be prepared to explain the rationale behind its decision.

111. Under the Code, schemes must also include malus and clawback provisions in certain specified circumstances. Such circumstances might include payments based on erroneous or misleading data, misconduct and misstatement of accounts.

112. Packages should not reward poor performance. Compensation commitments due to directors under their terms of appointment in the event of loss of office should be proportionate and variable by discretion. The remuneration committee should vary compensation where appropriate to the circumstances and to reflect departing directors' conduct and performance. They should reduce compensation to reflect departing directors' obligations to mitigate loss.

113. The remuneration committee should engage with the workforce to explain how executive remuneration aligns with wider company pay policy and promotes long-term value generation. This may involve using pay ratios to help explain the approach where appropriate. It may also involve explaining the rationale behind the structure and metrics chosen, any principles that have been applied to remuneration, factors that have been considered in setting executive remuneration and the circumstances in which discretion will need to be when determining pay outcomes.

Questions for remuneration committees

- How is executive remuneration aligned with wider company pay policy?
- How is corporate reputational risk considered in the setting of incentive pay?
- In what circumstances would we expect to exercise discretion over remuneration outcomes?
- What is the maximum award we think is reasonable for our executive directors and what will we do in the event the application of the formula produces an outcome in excess of that award?
- How does executive remuneration link to our strategy and KPIs?
- How effective are the financial and non-financial performance measures at supporting values and culture?
- Are incentives across the organisation aligned to our culture and encouraging the desired behaviours?
- Have we considered negative behaviour which the choice of any particular metric may encourage and what steps have we taken to manage such risks?
- Do employees feel that they are treated well and fairly in the workplace and that they are supported in developing themselves and fulfilling their potential?
- What have we done to explain executive pay arrangements in comparison with those of the workforce?

APPENDIX

OTHER SOURCES OF INFORMATION

FRC Papers

- Guidance on Risk Management, Internal Control and Related Financial and Business Reporting
- Guidance on Audit Committee
- Corporate Culture and the Role of Boards
- The UK Stewardship Code – sets out good practice for institutional investors on engaging with the companies in which they invest.

These can be downloaded from the FRC website: www.frc.org.uk or obtained free of charge from FRC Publications via the following methods:

Telephone: 020 8247 1264
Email: customer.services@cch.co.uk
Online: www.frcpublications.com

Directors' Duties

The legal duties of directors of UK companies are set out in Sections 170 to 177 of the Companies Act 2006, which is available at: www.legislation.gov.uk/ukpga/2006/46/contents

Other sources of guidance

Note: this is not a comprehensive list as other sources of information and advice are available.

The Institute of Chartered Secretaries and Administrators provides guidance on a wide range of board-related matters, for example, specimen terms of reference for board committees. This guidance can be found at: www.icsa.org.uk/policy-guidance

The Institute of Directors provides a wide range of guidance notes for directors, which are available at: www.iod.com/Home/Business-Information-and-Advice/Being-a-Director/

Smaller listed companies may find the guidance produced by the Quoted Companies Alliance useful. This can be found at: http://www.theqca.com/shop/guides/

ICSA: The Governance Institute and the Investment Association guidance, *The Stakeholder Voice in Board Decision Making* (published Sept. 2017) is available from: www.icsa.org.uk/assets/files/free-guidance-notes/the-stakeholder-voice-in-Board-Decision-Making-09-2017.pdf

Institute of Business Ethics guidance, *Encouraging a Speak-Up Culture* (published Nov. 2017) a summary is available: www.ibe.org.uk/userassets/pubsummaries/summ_gpg_speakup2.pdf

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