Code of Governance 2020

Additional guidance

Contents

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Introduction

It's been five years since the last code of governance for housing associations was published. In that time there have been many changes in the operating environment and the emphasis placed on aspects of good governance.

Revising the code has given us an opportunity to reflect on the good practice many housing associations are demonstrating, as well as on the content of codes of governance and good practice in other sectors. The National Housing Federation (NHF) plays an important role in providing thought leadership for its members. This new code seeks to provide a level of 'stretch' for organisations. There is far more of an emphasis than in earlier versions of the code on accountability to residents and other customers; on equality, diversity and inclusion in governance; on environmental and wider sustainability; and on organisational culture.

Writing a code of governance that is applicable to a sector as diverse as ours will always present challenges. It must be flexible and applicable for the huge range of organisations who choose to adopt the code, while at the same time avoiding an unnecessary level of prescription. Nonetheless, we were determined to have one code for all our members, rather than different versions for different types and sizes of organisation.

As such, the Code of Governance 2020 sets out a framework that all organisations can use to achieve a baseline for excellent governance. It is for each organisation to determine precisely how it will comply with the requirements underlying each principle and set out in each of the 'from principle to practice' sections. The language of the code is intentionally designed to allow a degree of flexibility for this reason.

The status of this guidance

This guidance is designed to assist housing associations in interpreting the code and is intended to be neither prescriptive nor exhaustive. Its focus is on highlighting aspects of the code which have changed in scope or emphasis since the last (2015) edition and on amplifying some aspects of the code where it is felt this would be helpful to organisations adopting it. Advice is also provided about sensible arrangements for making the transition to adopting the new code, and there is some specific guidance about how the smallest housing associations might sensibly interpret the code.

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Compliance

The 'comply or explain' approach has been widely adopted in UK corporate governance. It is an approach that positively recognises that while there is a presumption of compliance, there may in limited instances (such as a where an organisation is very small) be sound reasons for non-compliance, and obliges organisations to be transparent about their rationale in coming to that view.

An alternative approach to that set out in the code's requirements may be justified in a specific instance if it results in stronger or more appropriate governance in the context of the particular organisation, and still supports compliance with the relevant overarching principle. Likewise, some organisations may justify a commitment to achieving compliance with a particular requirement over a specified period of time because of the need to sustain good governance through a period of transition (for instance in matters of board renewal). Departures from a requirement can be justified so long as there is evidence of proper consideration of why an exception is necessary and of how the relevant overarching principle is observed through other means.

In some instances, individual requirements will quite straightforwardly not be applicable: because an organisation does not, for example, pay its board members, or does not operate within a group structure. For the sake of clarity, these instances would not be considered a breach of the code.

What's changed?

We summarise below the main differences between the 2015 code and the 2020 code.

Structure

We have introduced a new structural framework for the code. To simplify the code, we have replaced the eight requirements and their underlying provisions of the 2015 code with four principles, themed as follows:

- **Principle 1 – Mission and values**
- **Principle 2 – Strategy and delivery**
- **Principle 3 – Board effectiveness**

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- **Principle 4 – Control and assurance**

Each principle is supported by requirements set out in associated 'compliance: from principle to practice' sections.

Through the language used in the code, as well as its shape, we have endeavoured to reduce prescription where possible. It will be up to each housing association to decide how best to achieve compliance with the requirements underpinning each principle.

Content

As we mention in the introductions to this guidance and to the code itself, there are a number of shifts of emphasis in the new code which reflect our understanding of evolving good practice in governance, and anticipate the future governance needs of housing associations. The new code correspondingly contains some new or different requirements. We have set out the detail of these differences in Part 4 of this guidance. Where it remains relevant, we have replicated content from the guidance that accompanied the 2015 code on the basis that this has been found to be a useful aid to interpretation.

Terminology

There is a new glossary section in the code to provide some clarity on some of the terms used within. It is not exhaustive or prescriptive but is designed to help readers understand and interpret the terms used in the code. For example, the word 'published' is used when something needs to be publicly available: publication can be on a website, for example, in a document that can be made available if asked for, or via the use of social media. While the glossary should help, it will ultimately be for each organisation to take a considered view about their interpretation of the code's requirements.

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Transition period: adopting and demonstrating compliance with the new code

There are a number of new expectations set out in the 2020 code, for example in relation to equality, diversity and inclusion; to organisational culture; and to the renewal of board members. Some organisations may not be able to demonstrate full compliance immediately and will need to put structures and policies in place and then integrate reporting of these into the board meeting schedule as appropriate.

This code has been published in November 2020. As a next step we would expect organisations to read the code and carry out some form of gap analysis to highlight what work will need to be completed in order for compliance to be achieved.

Once the Company Secretary (or whoever has oversight of the governance function) has familiarised themselves with the code, we suggest that a paper is brought to the earliest possible board meeting to recommend adoption of the new code. A copy of the code should be made available for the board.

On the assumption that the board agrees to its adoption, then work can commence to ensure compliance, including, for example, what reports will need to go to the board and when. For some organisations this will be a straightforward process as they will be carrying out the necessary activities and reporting anyway. But for many, the overall transition period may take a number of months.

Of course the precise process followed will be for each organisation to determine but we anticipate that for most organisations, a statement of compliance with the new code will first appear in the 2021-22 annual report (financial statements) for those with a 31 March year end, with the organisation having taken the 2021-22 financial year to embed compliance.

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Applying the principles

In this section we have set out against each principle of the new code the following information:

A. General guidance about applying each principle

Here we have amplified aspects of the code where this is felt to be particularly helpful, including drawing attention to the main differences from the 2015 code. In adopting the code, organisations commit to complying with its requirements, and the guidance is intended to support this process. As such, and as we have written in the introduction to this guidance, it is not intended to be prescriptive, but an interpretative aid.

In some cases, important themes (such as equality, diversity and inclusion) inevitably extend across the principles. In these instances we have used our judgement to refer to them at the most appropriate point in the guidance in order to minimise duplication.

B. Links to useful documents

There is a wealth of information already available to organisations to support them to interpret the requirements of the code and understand what good practice looks like. To assist in identifying the most relevant information, we have set here a list of links to published information which are applicable for all organisations to consider. Although these are primarily links to our own publications and those of other relevant national bodies, we have also included links to resource hubs and other material – such as journal articles – that may provide further food for thought and discussion. The further reading section is intended as a useful source of information for those who wish to explore topics in more depth.

The inclusion of an item here should not be taken as meaning that the NHF endorses its content (except of course where it is an NHF publication). We have loosely grouped these links under each principle although there will be crossover between principles. Each heading has a list of guidance and good practice documents and, where applicable, some interesting further reading should anyone wish to explore the topics further.

This list is not exhaustive. There will be other good practice and associated publications on the web including those on the websites of (for example):

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- [Care Quality Commission](#)
- [Charity Commission](#)
- [Chartered Institute of Housing](#)
- [Financial Reporting Council](#) (FRC)
- [The Chartered Governance Institute](#) (ICSA)
- [National Council for Voluntary Organisations](#) (NCVO) (membership organisation) including the [NCVO Charity ethical principles](#)
- [National Housing Federation](#) (membership organisation)
- [Regulator of Social Housing](#)

Please note that some of the NHF documents listed here are paid-for publications and that some organisations will require registration or membership in order to access that content.

C. Reporting

We have provided a table at part C under each principle that lists the reports, policies, and other documents which are specified in the code and which may therefore be used to demonstrate compliance – as well as to provide assurance to the board. We have also listed those documents that need to be made publicly available. We do not specify how this should occur, as this is for each organisation to decide, although the obvious places for publication are on the website, in the annual report and in the financial statements.

This is not a comprehensive list of matters which should be reported to boards in the course of good governance. Each organisation will decide on what other reporting needs to be included in the board schedule. In each part C, documents have been grouped under headings as follows:

1. **Board reporting**
2. **Documents**
3. **Policies and procedures**
4. **To be made publicly available**

Many of these documents will already be in place as part of the existing governance architecture. The list reflects what is set out in the requirements, but as we have already explained above, organisations may explain instances where they feel a departure from these requirements is justified within the context of the overarching principles. We have only included instances where the code specifies a report, policy and/or procedure, statement, or other document: in complying with other

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requirements, it will be for all organisations to decide how best to provide an evidenced-based audit trail.

In most cases, a report would be subject to board oversight, but this depends on each organisation's structure, delegations and process. Unless the code specifies that the board must review or approve policies and/or procedures, it will be for each organisation to decide how this should happen – for example by committees or the executive team – but consideration should be given to how the board will be assured that the relevant policy is both in place and effective.

There is no requirement for items to be separate, stand-alone documents. For example, the policy on staff engagement might reasonably be part of a policy on general stakeholder engagement and reports to the board may also be combined. Please refer to the glossary of terms in the code for further guidance on the code's usage of words such as 'regular' and 'published'.

D. Information about how smaller organisations may interpret the code

We have provided some additional guidance for the very smallest and least complex housing associations, recognising that adopting the code in full may feel more challenging for these organisations.

Smaller housing associations are currently defined by the Regulator of Social Housing as those that have fewer than 1,000 units. Within this range there are a variety of different types of organisations, from small co-operatives, almshouses and abbeyfields, and housing associations that provide a landlord function for a few units, to more complex organisations that have supported housing, development programmes, subsidiaries and/or wider community functions. We intend that the additional guidance provided here for smaller housing associations will be relevant only to those within this group which carry out no more than the basic landlord function and are non-developing.

In order to demonstrate compliance with the code, these smaller organisations will need to think carefully about how they can make sense of the code's requirements (set out in the 'from principle to practice' sections of the code) in a way which is proportionate and remains meaningful. To assist with this we have supplied, for each principle, some guidance about how each theme within the code could be sensibly interpreted.

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Principle 1 – Mission and values

A. General guidance about applying Principle 1

Resident focus (1.2)

The requirement for resident focus to be central to governance is now explicit in the introduction to the code and as part of Principle 1 under requirement 1.2. Section 1.6 requires the board to demonstrate accountability to residents and other customers (defined in the glossary as others using the association's service, although it is for each board to decide who they are). The board is required to have access to insight into the views and needs of residents and to use this to inform decisions where appropriate.

Other principles and their underlying requirements in the new code also strengthen the emphasis placed upon involving and understanding the views and needs of residents and other customers. Section 1.6 sets expectations about demonstrating accountability to stakeholders including residents and other customers; Section 3.2(2) establishes a clear role for the board to ensure a culture in the organisation that focuses on the needs of current and future residents; and Section 3.9 requires the board to consider annually, as part of reviewing its own effectiveness, how the views and needs of key stakeholders, including residents and other customers, have informed decisions.

Safety is a theme that runs through the code and consideration of the safety of residents and staff appears in requirement 1.2 (resident focus) 2.5 (workforce) and 4.4 (compliance). Section 4.4 requires the board to gain assurance on a regular basis that it fulfils its requirements relating to the health and safety of residents. It will be up to each board to decide how best to achieve a satisfactory level of assurance.

Equality, diversity and inclusion (EDI) (1.3)

Changes in society and the focus brought by movements such as Black Lives Matter have drawn attention to the continuing need for almost all organisations to increase the diversity of their people, including those who populate their boards and executive teams, and to more strongly and effectively embed inclusivity in their organisational culture is essential to bring about change in attitudes and culture. There are, of course, legal requirements placed upon organisations with regards to equality, as well as a moral imperative to drive change. But there is also a well-recognised

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business case: diversity and inclusivity reap great rewards for organisations that fully embrace them. The World Economic Forum, for example, recognises benefits for innovation, profitability, creativity and governance. We recognise that diversity is a key pillar of effective boards, alongside appropriate skills, experience and values – and that bringing together people with diverse experiences, perspectives and opinions supports richer debate and stronger decision-making.

We have correspondingly sought to place a much greater emphasis than previously on EDI across a number of aspects of the code. The requirement for the board to take an active lead in committing to equality of opportunity, diversity and inclusion in all of the organisation's activities as well as in its own composition is explicit at Principle 1, Section 1.3.

Further requirements relating to the selection of board members, the board role in ensuring EDI is embedded throughout the organisation, and the publication of relevant information can be found at Principle 1, Section 1.3 (2). Within the 'from principle to practice' sections in Principle 3 there is a clear commitment needed from the board to ensure EDI is embedded in the organisation (3.2) and that board composition comprises people with diverse backgrounds and attributes, having regard to the diversity of the communities the organisation serves (3.4).

Culture (1.4)

There has been more emphasis recently in governance practice (and in other codes of governance) on the board's role in ensuring a positive and inclusive culture within the organisation. This emphasis is reflected in the new code.

Principle 1 underlines the role of the board in demonstrating through its behaviours that it upholds and promotes the values of the organisation. Section 1.4 is explicit about the board's role in considering and defining the culture and behaviours that will best enable the organisation to deliver its mission and values, with associated requirements about leading by example, promoting the culture and seeking assurance that its desired culture is being enacted in practice.

How compliance is achieved will vary from one organisation to another depending on size and complexity as well as preference, but it will be important that the board understands and defines the culture which best aligns with the organisation's purpose and strategy. It will then need to rely on a range of sources of information and assurance in order to develop confidence that the desired culture is embedded.

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These might include key performance indicators designed to help understand the culture of the organisation; data about compliance, complaints, whistleblowing and fraud; the results of staff surveys, internal or external reviews and projects; as well as direct engagement with staff, residents and other customers. Feedback about the organisation's culture might be sought from appropriate third parties such as internal auditors.

Integrity (1.5)

Boards are responsible for their own probity and need to ensure that a framework of controls is in place to support their members to act, and be perceived to act, in the organisation's best interests. The board, or a committee with the necessary delegated authority reporting to the board, should from time to time review:

- The stated values of the organisation, and how they are implemented in practice.
- The implementation of this code of governance, and its underlying principles.
- The codes of conduct adopted by the organisation for its board members and staff.
- How effectively actual or potential conflicts of interest are managed within the governance of the organisation.
- The policies and procedures of the organisation relating to hospitality, gifts, whistleblowing (in accordance with the Public Interest Disclosure Act 1998), access to information and other matters of business ethics such as corporate social responsibility.

It may be sensible to include this consideration as part of wider reviews of board effectiveness.

Accountability (1.6)

The 'principle to practice' section on Accountability clarifies the need to be accountable to key stakeholders. We do not define who these are but would suggest shareholders (if the organisation operates an open shareholding), residents and other customers, staff, local authorities the organisation works with, local community groups and the organisations' regulators are good examples.

It is important to note that the new requirement at Section 1.6 of the code reflects the NHF's commitment, made in the plan for the Together with Tenants initiative, that there should be 'a new requirement in the National Housing Federation Code of

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Governance for boards to be accountable to their tenants and residents'.

While the code does not specifically require those who adopt it to also adopt the Together with Tenants Charter, our expectation is that they will do so as the most expedient way to comply with Section 1.6, and to demonstrate their support for this important initiative by their representative body. If they choose not to do so, we suggest that NHF members will wish to be able to demonstrate evidence that their board has given this active consideration and intends to meet or exceed the requirements of the charter by other means.

There are many ways organisations can communicate their activities, performance and plans to stakeholders and provide opportunities to be held to account: for example, communicating via their website, holding events for stakeholders, publishing annual reports to residents, communicating with the regulator about material issues, setting up a framework for residents to scrutinise specific aspects of service delivery, and so on.

Openness and transparency are fundamental aspects of accountability. Boards will wish to have a view on which policies, procedures and documents – and what information – should be publicly available and how requests for information or transparency on decision-making are handled in a way that promotes openness.

Shareholders

Section 1.6 refers specifically to accountability to shareholders. Each organisation should decide the purpose and role of shareholders in its governance. In some cases, organisations operate closed membership in which only the board members may be shareholders and vice versa. In others, there may be much larger shareholding membership.

Shareholders should be appointed in a transparent and open manner. The policy for admission to membership should be freely available, and organisations should consider issues of equality, diversity and accountability when drawing up and implementing such policies. The way in which shareholding members are chosen should realistically reflect their role in governance, and contribute to the organisation's long-term constitutional and financial stability. Shareholders should be informed of their role and responsibilities, including the obligation to act in the best interests of the organisation.

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Reputation and trust (1.7)

There is a new requirement for the board to take into account the organisation's reputation in its actions and decisions. It will be up to individual boards to determine how this should be complied with – but there should be a general expectation that the board will anticipate and discuss matters which may affect the organisation's reputation in some way. Some boards may decide to (or may already) include a specific risk about reputation and trust in the strategic risk register, and pay careful attention to the appropriateness and effectiveness of related controls. Other possible means by which compliance with this requirement could be demonstrated are a board giving explicit consideration to trust and reputation when setting the forward strategic direction and objectives of the organisation, and when approving plans to achieve them, or explicitly considering reputation and trust each time a strategic decision is made, with this consideration reflected in the minutes.

B. Links to useful documents (Principle 1)

Resident focus

- Together with Tenants, NHF, 2020 (The Together with Tenants charter and plan)
- The stakeholder voice in Board decision making, ICSA and the Investment Association, 2017 (Guidance to help boards think about how to ensure they understand and weigh up the interests of their key stakeholders when taking strategic decisions)
- The people factor, ACAS, 2014 (ACAS guidance on employee engagement)

Further reading

- Every Voice Counts, National Federation of ALMOs, 2018
- The future of stakeholder engagement, BSR, 2016 (How companies can transform their stakeholder engagement approaches by moving from consultation of stakeholder groups toward more collaborative, inclusive, and strategic engagement)
- Civil society futures, 2019 (The Civil Society Futures website, reporting the findings of an independent inquiry into the future of civil society in England, covering a range of issues including community engagement in decision-making)

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- [Consumer regulation review, Regulator of Social Housing, 2020](#) (The annual RSH report on its implementation of consumer regulation legislation. It includes case studies and lessons learned)
- [Stakeholder engagement: a road map to meaningful engagement, Cranfield School of Management, 2009](#) (Practical tips for successful stakeholder engagement)

Equality, diversity and inclusion

- [The Race Equality Code (2020)](#)

Further reading

- [The Altair review 2017: delivering a step change in ethnically diverse leadership across the housing sector](#)
- [Walking the talk on diversity, NPC, 2020](#) (Resource hub asking: what is holding the charity sector back from putting words into action?)
- [Capability not ethnicity, Business in the Community, 2020](#) (The website of Business in the Community's 'Race in the Workplace' campaign)
- [Moving beyond diversity to racial equity, Ben Hecht, Harvard Business Review, 2020](#) (The paper argues that achieving racial equality in the workplace will be one of the most important issues that companies will tackle in the coming decade)
- [Getting over your fear of talking about diversity, Daisy Auger-Dominguez, Harvard Business Review, 2019](#) (Advice to leaders who are afraid of saying the wrong thing when trying to solve diversity, equality and inclusion issues in the workplace)
- [When and why diversity improves your Board's performance](#), [Stephanie J. Creary](#), [Mary-Hunter McDonnell](#), [Sakshi Ghai](#) and [Jared Scruggs](#), Harvard Business Review, 2019 (The benefits of having a socially and professionally diverse board cannot be realised without an egalitarian board culture)
- [Teams solve problems faster when they're more cognitively diverse](#), [Alison Reynolds](#) and [David Lewis](#), Harvard Business Review, 2017 (The potential value of cognitive diversity and how to encourage it)

Culture

- [Five ways to enhance Board oversight of culture, EY, 2019](#) (Ways in which boards can challenge and support management in realising the company culture's value)

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- [Culture and the role of internal audit: looking below the surface, Chartered Institute of Internal Auditors, 2014](#) (The role of internal audit in bringing about positive cultural change)

Further reading

- [Corporate culture and the role of Board, FRC, 2016](#) (A report designed to stimulate thinking around the role of boards in relation to culture, and encourage boards to reflect on what they are currently doing)
- [In a new era for Boards, culture is key, Spencer Stuart, 2018](#) (Defining board culture and identifying culture styles)
- [Going for Gold — the 2019 global Board culture and director behaviors survey, Russell Reynolds Associates, 2019](#) (The report of a survey of 750 board directors of large public companies seeking to identify what defines top-performing boards)
- [The power of what cannot be seen, Peter Eckel and Cathy Trower, 2016](#) (It's not what boards do (or don't do) but how they do their work that really matters)

Integrity

- [Code of conduct 2012, National Housing Federation, October 2012](#) (The code sets out a comprehensive framework covering all aspects of an association's business)
- [The Seven Principles of Public Life, Committee on Standards in Public Life, May 1995](#) (The Seven Principles of Public Life outline the ethical standards those working in the public sector are expected to adhere to)
- [Code of conduct for members of public bodies, Cabinet Office, June 2019](#) (This latest edition reminds office holder of their role in promoting diversity and inclusivity within their organisation, including at board level)

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C. Reporting (Principle 1)

Code ref	Item	Comment
	Board reporting	
1.2 (3)	Annual reporting against resident and customer safety policy	To be underpinned by regular reporting on health and safety compliance
1.3 (1)	Regular reporting against equality, diversity and inclusion priorities and objectives	To provide assurance on implementation and progress
1.5 (3)	Annual reporting on the declaration of interests register	
	Documents	
1.5 (1)	Board code of conduct	
	Policies and procedures	
1.2 (1) (2)	Resident engagement and influence policies	
1.2 (3)	Resident and other customer safety policies	To be underpinned by detailed health and safety policies and procedures
1.3	Equality, diversity and inclusion policies and statements	
1.5 (2)	Board member conflicts of interest policies and procedures	To include among other things Code provisions 1.5 (3), (4) and (5)
1.6 (6) and 1.6(7)	Shareholder policy (including admissions for open shareholding if necessary)	To define the role of shareholders in the organisation's governance. This to be made publicly available if for open shareholders
	To be made publicly available	
1.2 (4)	Report to residents on delivery of resident focus commitments	To be issued regularly

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1.3 (2)	Annual information about equality, diversity and inclusion	
1.5 (3)	Board and committee member declaration of interests register	To be mindful of GDPR
1.6 (1)	Annual information about activities, performance and plans	To cover among other things the matters referred to in the Code
1.6 (4)	Information about board members, committees and governance	To be kept up-to-date

D. Information about how smaller organisations may interpret Principle 1

Mission

All organisations should be able to demonstrate that their board has set the mission and values and that at least once a year a discussion has been held to make sure that they are still relevant. These discussions can be minuted as a helpful way of ensuring they are on record to demonstrate compliance.

Resident focus

All housing associations, regardless of size, should be able to engage with their residents in a meaningful way. Many organisations that are very small will have a close day-to-day relationship with residents. The requirement to have in place '*policies, frameworks and opportunities which enable, encourage and support residents… to engage with… strategic decision-making'* could be, as an example, met by having an overall policy on resident visits and the ability for residents to visit the office, checking in with residents at scheme meetings on their welfare and concerns, and newsletters – provided that through these mechanisms there is genuine engagement with residents which informs decision-making. An annual report to the board on overall resident engagement themes could be achieved and a newsletter or website could have a 'you said we did' section.

Equality, diversity and inclusion

All housing associations, regardless of size, client group and number of staff should strive to embrace diversity and set a commitment to be as inclusive and diverse as possible. As a minimum, a very small organisation should, for example, be checking periodically that any new tenants have been allocated property on the

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basis of merit and without any discrimination on the basis of the protected characteristics enshrined in law. Board renewal should be as open a process as possible and efforts made to achieve as diverse membership as possible. This also applies to any staff recruitment.

Culture

All organisations should be able to define their desired organisational culture and the behaviours expected from board members and staff. For very small housing associations, an annual discussion around how the board is modelling the culture of the association and some assurance that staff are aware of the expectations set and are complying with these expectations should happen. These discussions should be recorded in some form, and wider communication (e.g. a statement on the website or in resident newsletters) to inform stakeholders about the organisation's culture should be achievable.

Integrity

All organisations will want to operate to the highest standards of probity and conduct. There is no reason why all housing associations should not be able to adopt a code of conduct for board and staff. This would include any guidance on declaring conflicts of interest.

Accountability

All organisations should endeavour to operate in an open and transparent way. Very small associations should, as a minimum, be able to communicate to stakeholders (e.g. via a website or an annual newsletter or in the financial accounts (annual report)) their key achievements in the year and compliance with relevant regulatory standards.

Reputation and trust

All boards should take into account the potential effect on the organisation's reputation when making key decisions. This should be achievable for all organisations.

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Principle 2 – Strategy and delivery

A. General guidance about applying Principle 2

Strategy, resources and plans (2.1)

Environmental, Social and Governance ('ESG') criteria

The new code places a greater emphasis than the 2015 version on financial, environmental and social sustainability and how these are reflected in the strategy and plans that the board sets. The concept of sustainability is embedded in Principle 2 and in the detail which underpins it: there is a requirement at section 2.1 for the board to set 'financially sustainable plans…' and 2.1(2) states that 'the board gives specific consideration in setting such plans to value for money, financial sustainability, carbon neutrality and environmental sustainability and social sustainability.'

We note that some responses to our consultation on this code indicated that a definition of 'social sustainability', in particular, would be helpful. We take the view that the precise definition applied by an organisation is for it to determine, and there are many helpful sources of information about social sustainability available, but for the purposes of a working definition we suggest that the UN Global Compact's definition is a helpful starting point: 'Social sustainability is about identifying and managing business impacts, both positive and negative, on people' – extending to customers, communities, employees and other stakeholders.

The new requirements in the code respond to the increasing value placed upon environmental, social and corporate governance (ESG) both within the housing sector and beyond it – and of course the code itself represents a framework for corporate governance excellence for the entire sector.

Working with others (2.3)

There is a new requirement at section 2.3 of the 2020 code that organisations consider the merits or otherwise of working with others in order to fulfil their social purpose. The code is not prescriptive about how this should be done nor, critically, about what the outcomes of that consideration should be. We would suggest an annual board conversation takes place as a minimum and specific opportunities are proactively explored as they arise.

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The chief executive (2.4)

Section 2.4 of the new code has been expanded from the similar section of the 2015 code to clarify expectations around remuneration, disclosure in the financial statements and appraisal.

We have referred in the code to the chief executive or equivalent. Depending on the organisation, it may be the managing director or manager. Essentially it is the senior member of staff who reports directly to the board.

All chief executive or managing director (or equivalent) roles should be set out in a job description which captures key responsibilities and is reviewed by the board at least every two years.

The written and signed contract of employment for the chief executive should, besides complying with current legislation, clearly define:

- The duties and the standards of performance expected of the post-holder.
- The procedures for monitoring the chief executive's performance and fixing their remuneration.
- The remuneration level, and other terms and conditions, including such matters as retirement, redundancy or severance.
- How complaints and disciplinary matters will be dealt with.
- How the contract will be reviewed and can be amended.
- The length of the contract, whether or not it can be renewed (if it is for a fixed term) and any notice period.

Boards should consider the following when agreeing the remuneration of the chief executive officer:

- Although the board may act on the recommendation of a committee, it is for the board as a whole to approve the chief executive's remuneration package.
- The board should consider the totality of any increases in the 'package' for a chief executive rather than consider each change in isolation.
- A remuneration package should be given which is proportionate to the size and complexity of the organisation and sector norms, and sufficient to attract, retain and motivate the quality of chief executive required.
- Any performance-related elements of the remuneration package should be linked to the achievement of specific and measurable targets which are reviewed at least annually.

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Some chief executives are also members of the organisation's board, and it is helpful for the chief executive and chair to think through any changes required to processes or documents to reflect this. Board membership is a separate duty to any employment relationship, however, and should be treated as such.

Workforce (2.5)

Section 2.5 is an addition to the content of the code and places a responsibility on the board to understand the opinions and needs of staff so that these can influence board decisions. It also places responsibility on the board to ensure there are policies on the safety and wellbeing of the organisation's workforce as well as key metrics and information so that the board can monitor any themes and actions arising from, for example, instances of sexual or racial harassment. This responsibility can, of course, be delegated to a committee as appropriate.

The board should ensure that all members of the workforce have access to opportunities for learning and development, and that a budget is set for investing in such activity.

Group structures (2.7) and joint ventures and partnerships (2.8)

Section 2.7 builds on similar requirements in the 2015 code. We recognise that housing associations operate a variety of different types of group structures and enter into a variety of different types of joint venture and partnerships; some entities will be controlled by a parent board to a greater extent than others. The code reflects this diversity in being as non-prescriptive as possible around how group structures are managed providing that, where applicable, the main board exercises due control. The 'from principle to practice' section (2.7) on group structures underpinning Principle 2 sets out a framework for control and assurance for each organisation with a group structure to interpret.

Section 2.7 (6) states it is for the parent board to determine whether and how the code should apply to its subsidiaries. Examples of why a parent may decide its subsidiary should not adopt the code could be that the subsidiary is not a registered provider, or is a shell organisation.

Joint ventures were not referred to in the 2015 code. The nature of joint ventures impacts on the control a group board can exert, given that governance takes place in partnership with other organisations. The section in the code (2.8) that specifically relates to joint ventures requires boards to periodically ensure that the joint venture is still relevant and that the benefits and risks have been reviewed. There is no

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explicit requirement for joint ventures to sign up to the code of governance, although they may wish to do so.

Every group board should be clear with the members of its group about the scope and limits of their powers; these are most commonly documented in intra-group agreements. It is expected, for example, that the group parent will require subsidiary registered providers – but not necessarily all trading subsidiaries – to comply with this code.

A group board can balance effective parent control with an appropriate degree of operational independence by:

- Defining the financial and other limits within which the subsidiary works.
- Defining a group corporate plan which establishes the group's vision, mission and values and its overall aims and objectives.
- Approving for each subsidiary business plans and budgets which contribute to delivering the group corporate plan.
- Establishing which policies and codes apply to all entities within the group.
- Having a clear reporting framework.
- Operating arrangements across the group for the management of risk.

We recognise that some of the requirements of the code which refer to groups and subsidiaries may need to be interpreted differently, or may be non-applicable, where the code has been adopted and is being applied by a subsidiary within a group (rather than by the parent).

B. Links to useful documents (Principle 2)

- Sustainability: UK Social Housing - building a sector standard approach for ESG reporting
- Mergers, group structures and partnerships, a voluntary code for housing associations (NHF 2015)
- Essential actions of a Chief Executive (NCVO 2018)
- What is the Role of the Managing Director (IOD 2018)

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C. Reporting (Principle 2)

Code ref	Item	Comment
	Documents	
2.1	Organisational strategic plans	The plans to reflect the requirements of provisions 2.1 and 2.3 to be reviewed by the board
2.4 (1)	Chief executive responsibilities and delegated powers	
2.4 (2)	Chief executive (or equivalent) contract of employment	To be reviewed regularly with independent advice as required
2.7 (4)	Group and intragroup documentation	Group arrangements to reflect the requirements of provision 2.7
2.8 (1)	Joint venture and partnership vehicle documentation	Arrangements to reflect the requirements of provision 2.8
	Policies and procedures	
2.4 (5)	Chief executive annual appraisal process	Normally a documented process overseen by the board or a specific committee
2.5 (3)	Workforce safety and wellbeing policies	To be reported to the board for review (this may have a covering report as the board decides)

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D. Information about how smaller organisations may interpret Principle 2

Ambitions, plans and strategies

All organisations should be able to articulate their strategy for the next five years and include in that strategy how they will meet the needs of their residents and service users, how they will remain financially viable and how they will ensure their properties are well managed.

Sustainability and ESG

The code requires all organisations to give '*specific consideration',* when they set plans, to value for money, financial, environmental and social sustainability and carbon neutrality. These are all relevant considerations whatever the size of an organisation. We suggest that the board discusses these issues annually when reviewing its plans and reflects its consideration in those plans as appropriate.

Structures

All organisations should be able to comply with this requirement which requires organisational, governance and staffing structures to be clearly set out and regularly reviewed to ensure they are still relevant and in line with the organisation's purpose. For very small organisations, periodic discussions around the need for certain committees, whether a new committee needs to be set up, and whether it has the staff employed to deliver its purpose would suffice. This could be combined with an annual discussion around succession planning for board members.

Working with others

All organisations should have a discussion periodically about their future and whether they could deliver their mission better in collaboration with another organisation. This applies whatever the size of the organisation: the board should take a clear and informed position in this regard, but the code is not prescriptive about what this should be, simply that proper consideration must be given to the matter. We would suggest that consideration is given to it at a board meeting annually.

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The chief executive

Many very small organisations will not have a chief executive. They may employ a full or part-time manager. For organisations that employ any staff, there should be some form of monitoring of their performance by the board, a job description and contract of employment. The manager (or whoever runs the organisation on a day-to-day basis) should have access to a board member to discuss issues on a regular basis.

Workforce

This section of the code may not be applicable for organisations with no staff. However, if the organisation has any members of staff at all, the board should determine how it will understand their views and ensure their safety and wellbeing.

Performance

All organisations' boards should receive periodic reports on matters of financial and operational performance, such that they can understand progress against the organisation's strategy and any threats to its achievement.

Group structures

This will not be applicable for most of the smallest organisations but where applicable please refer to appropriate section in the guidance.

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Principle 3 – Board effectiveness

A. General guidance about applying Principle 3

Roles and responsibilities (3.1)

The chair's role

Taking on the role of chair is a significant responsibility. In appointing individuals to this role, boards should identify the skills, experiences, attributes and time commitment prospective candidates offer, and be clear about what support may be available to a chair.

The chair must take responsibility for the smooth orchestration of a number of personnel and performance matters. In relation to the chief executive and other senior staff, the chair must ensure suitable arrangements are in place to appraise the performance of the chief executive and determine the remuneration of the chief executive and other senior staff. Where there is a group structure, the role of subsidiary boards in these matters needs to be clarified. In the event of a voluntary departure or a dismissal, the chair must also ensure that the chief executive is replaced in a timely and orderly fashion.

In relation to the board itself, the chair must ensure proper and appropriate arrangements for the collective board appraisal and that of individual board members. It is preferable that the chair leads this process, even where other means of delivery (e.g. external support) are used.

The chair should ensure that the board agrees the role of the vice-chair or senior independent director (SID), where there is one.

Roles and responsibilities: subsidiaries

Section 3.1 (2) states that 'The chair of the board does not chair and is not a member of the committee responsible for audit, nor does the chair of the board chair the committee responsible for remuneration'. Where a subsidiary adopts this code, this requirement should be complied with in relation to the relevant committees unless there is a good reason otherwise – in other words, the usual expectation of comply or explain applies here.

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As a matter of good practice, the requirement should also be taken to apply to subsidiary boards which have not adopted this code. This is in order to ensure an appropriate separation of duties and to ensure that scrutiny and decision making is as independent as possible.

Section 3.1 (4) requires that the roles of chair of the board and chairs of standing committees (and vice-chair and SID) are not held by an executive. This may be something a parent board decides does not apply to subsidiary organisations which adopt the code (as well as to those that do not adopt it).

Board composition (3.3)

Board composition: executive staff on boards (3.3(3))

As is the case in other sectors, it is not unusual to find boards (particularly of medium-sized and large housing providers) considering the benefits of having executive members. As part of that consideration, it is important to determine whether executive staff should be full or co-opted members.

If executive staff are to be full members, the board should agree those matters on which executive staff board members will not vote – for example, the membership of a remuneration committee – and should agree what core board committees it would be inappropriate for executive board members to sit on, e.g. nominations and audit committees. These terms should be formally recorded.

Board composition: senior board member (3.3(4))

Section 3.3 (4) mentions the role of a senior board member – normally a vice-chair or senior independent director. It is at the discretion of each organisation whether to appoint to either of these roles – or indeed to another such as 'deputy chair'. The role of senior independent director (SID) usually involves acting as a sounding board for the chair and acting as an intermediary, where required, between other board members and the chair. Ultimately it is for the board to decide what arrangement is best for the governance of the organisation.

There are some key roles, indicated in the code, which a designated senior board member should assume. We have not defined what a senior board member is, but we would usually expect that it would be one who holds a specific key role within the board – for example, vice-chair, SID, or chair of a committee such as the audit and risk committee or nominations committee.

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Board election, selection and appointment (3.4)

The new code places more emphasis on diverse board composition. Section 3.4 is explicit that organisations must populate boards and committees with people from diverse backgrounds and with diverse attributes and that they are fully aware of the overall role requirements. Diversity here should be interpreted widely, and not only in the context of the protected characteristics enshrined in law: so that, for example, socio-economic diversity and neurodiversity are also considered.

Principle 3 also requires organisations to ensure that 'people with direct lived experience of (or particular insight into) the communities served by the organisation are meaningfully engaged in governance structures' (Section 3.4 (4)). This requirement is intended to ensure that governance is informed by an understanding of the views and needs of the people most affected by strategic decisions.

It is ultimately up to each board to decide its composition (and that of other boards and committees within the governance structure), and while one way in which the new requirement at 3.4(4) can be met is for residents to be members of the board or a committee, there may be other equally as effective ways of achieving this. It will be up to each organisation to decide how best to achieve the overall outcome of ensuring the board understands and is able to consider the impact its strategic decisions will have upon the communities within which the organisation works.

Committees (3.5)

Having regard to section 3.2 of the code, which refers to matters that should be reserved for the board, it is for each organisation to determine precisely what matters should be delegated to committees. In a group structure, committees may be group committees, or specifically for one organisation within the group – whichever applies, best practice dictates that the arrangements should be clearly understood and documented.

How committees work together with the main board, the degree of delegation to them, and committee membership are always important considerations for any board. These issues might also usefully form part of the annual discussion about effectiveness. The cycle of board and other strategic meetings, together with key business objectives, ought to be taken into account when determining the type, frequency and content of committee meetings. Periods of major change or risk may demand additional meetings or time-limited *ad hoc* working groups (which should be kept focused to avoid the risk they drift into sub-committees with no clear remit).

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Many committee chairs have found that their roles have become more substantive in recent years, with some being engaged in leading aspects of appraisal processes themselves. It is useful to keep role descriptions under regular review to ensure that they reflect any changed responsibilities.

We have made reference at 3.7 to independent committee members. These are people recruited to committees in order to supply a specific skillset and who are not main board members. An example may be someone who is on an audit and risk committee and contributes particular skills in relation to finance and external audit, as well as bringing an external perspective to the scrutiny of risk management, or someone with specific HR skills who sits on a remuneration and nominations committee and is able to contribute independent views on issues such as board remuneration.

It is good practice to have on the audit committee someone who has experience of working with auditors, but this is at the discretion of the organisation.

To demonstrate transparency, many organisations disclose the membership of board committees in their annual reports. This is something that the NHF would encourage as part of the overall ambition for housing associations to be more open and transparent.

Tenure and renewal (3.7)

Tenure

Under section 3.7, we have emphasised that tenure should comply with the organisation's constitution.

It is increasingly common practice among organisations seeking to demonstrate excellent governance to apply a six-year maximum tenure for board members. In some cases, this comes with the flexibility to extend tenure for a further period (usually to a maximum of nine years in total), with any extension often being based upon annual review.

This shift is desirable both in order to enable organisations to more quickly increase the diversity of their boards, by accelerating renewal, and ease the process of necessary renewal as the skills needed at board level shift over time. Good practice suggests that it should never be assumed on appointment that any board member will hold their role for the maximum tenure.

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The 2020 code therefore, at Section 3.7, shifts the maximum tenure to, *normally,* six years (compared with nine years in the 2015 code), but provides the flexibility to extend tenure up to nine years on a case-by-case basis if determined to be in the organisation's best interest.

Examples of what constitutes an organisation's best interests will vary from organisation to organisation but may include particular skills a person has that are difficult to replace through recruitment, overall difficulty in attracting new board members to the organisation due to factors such as geography or the specialist focus of the organisation, or the need to invest in a considerable period of training and development for board members in some circumstances.

The flexibility to increase tenure for board members up to nine years can be used within the overall succession planning, to smooth the process for board retirements, especially if a number of members have already been on the board for six years or longer. It will be up to each organisation to decide how best to achieve this and ensure stability on the board.

It should be noted that the code is unambiguous that the requirements about tenure apply to office which has been held across any and all of the organisation's boards and committees, including service as a co-optee. This requirement is designed to help organisations maintain the independence of non-executive board and committee members. For those organisations which favour 'schooling' potential board members through subsidiary structures or committees, the requirement to have maximum tenure apply to all board member service will need to be taken into account in any overarching succession planning strategy.

For the majority of organisations, adoption of the new code should not require any alteration to their written constitution in order to accommodate the new provisions about tenure. The code does, of course, state that if an organisation's constitution conflicts with the code, the constitution takes precedence. Provided, however, that a constitution does not require tenure exceeding six years to be served, there is no conflict: what the code is requiring is within what is permitted by any constitution specifying a maximum nine year tenure (e.g. in line with D11 of the model rules 2015). It would be unusual, therefore, for an organisation to need to change its rules in order to comply with this section of the code.

There is strong evidence that organisations have benefited from a tenure limit: it prevents the dominance of one viewpoint or mode of thought, it is demonstrably fair to all, and it encourages a renewal and refreshment of board thinking and skills.

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In order for this limit to have a genuine impact, the code now specifically requires that at least three years must elapse before a board member who has served his or her maximum tenure can be reappointed.

Many organisations in any case choose to have a blanket ban on subsequent reappointment, even after considerable time may have elapsed. This is considered good practice, and clearly this exceeds, and therefore complies with, the requirements of this code.

Renewal

New members should be appointed on a systematic and continuous basis, thus avoiding bigger changes at infrequent intervals. The board should agree, in writing, its policies for:

- The recruitment, selection or election of new members, including the chair, ensuring that the application process is as inclusive as possible to support diversity.
- The creation of role profiles and competency frameworks for the board.
- The preferred composition of its membership.
- Fixed terms of appointment. The maximum tenure must be nine years or fewer, and this applies to all board member service with an organisation or its predecessors or its subsidiaries.
- Establishing a process for succession planning.
- Circumstances in which individuals would be excluded from becoming or continuing to be a board member.

Many organisations have made these policies available on their website or via other media.

Conduct of business (3.8)

The company secretary

Section 3.8 makes reference to a company secretary. This role may fall within a wider governance role such as director of governance (who delegates some of the duties to a member of his/her team). Where an organisation does not have a designated company secretary it should identify someone who can fulfil the essential duties of a company secretary.

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Board performance, review and learning (3.9)

Board performance and review

The annual review of board and committee effectiveness could take the form of a discussion at a board meeting or awayday, or another form as the board or committee sees fit. The requirement for a *regular and formal review* (3.9 (2)) is designed to provide some flexibility in relation to how often a more formal review takes place, but the definition of 'regular' in the glossary included in the code is 'at least every three years'. The formal review would be likely involve more structured consideration, preparation of a report to the board (with or without external assistance) and an action plan to map required changes over time. The board may wish to engage the help of an independent third party to demonstrate transparency and invite challenge to how governance is organised. This collective review of effectiveness is distinct from the individual appraisals for board members which the code also requires should take place.

The formal review could, for example:

- Identify the board's ability to scan the operating environment, think strategically and adapt as necessary.
- Review how well the board performs its key roles and how successful it has been – including looking at the impact of decisions it has made.
- Review the effectiveness of board relationships and the board's effectiveness as a team.
- Assess how the board demonstrates accountability to and is viewed by key stakeholders and partners, such as tenants, staff, regulators, investors, local authorities, etc.
- Review the composition and size of the board, and the skills and experience it collectively possesses.
- Review the organisation's ability to recruit and retain the balance of board members it needs.
- Assess the effectiveness of board processes, and of the level and quality of the information the board receives.
- Review the learning and development needs of the board as a whole.
- Review the governance structure (including the effectiveness of delegations).
- Result in a clear plan to support continuous improvement of the board to meet the challenges faced by the organisation.
- Address whether the board provides enough support, scrutiny and challenge to the senior staff team.

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- Assess compliance of key governance documents and practices with legal requirements and good practice.

These points should be extended to any formal committees (and potentially subsidiary boards) where these exist within the governance structure.

Learning and development

It is usually the chair, in liaison with the company secretary or equivalent, who ensures that all new members receive induction training. The induction process should provide basic information on the role and responsibilities of the board as well as tailored information for each individual board member.

Learning and development activity should be based on an analysis of the needs of individuals and the board as a whole, to ensure that individuals remain up to date and continue to add value to the work of the board.

Member appraisal (3.10)

Individual appraisals should review the skills and contribution of individual members, and include the assessment of the chair and vice-chair. Many organisations sometimes engage an independent third party to help design and support the administration of the process. Boards should have clear procedures in place for the removal of board members and independent committee members where issues of performance, conduct or conflicts arise that cannot be resolved. These procedures should be covered in the organisation's governance arrangements.

Compliance with the code (3.11)

This section, at 3.11, now includes a requirement for organisations that have subsidiaries which do not adopt the code to explain why. In these instances, the parent organisation should satisfy itself that the subsidiary board holds itself to an appropriate standard of governance.

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B. Links to useful documents (Principle 3)

Board roles and responsibilities

- What is the role of the senior independent director? Institute of Directors, 2018 (IoD factsheet)
- The role of the Senior Independent Director, The Zygos Partnership and Legal & General Investment Management, 2017 (How the role has evolved and current good practice)
- Terms of reference for the audit committee, ICSA, 2020 (Guidance note and model terms of reference)
- Terms of reference for the risk committee, ICSA, 2020 (Guidance note and model terms of reference)
- Terms of reference for the remuneration committee, ICSA, 2020 (Guidance note and model terms of reference)
- Terms of reference for the nomination committee, ICSA, 2020 (Guidance note and model terms of reference)

Functions of the board and overall board effectiveness

- Guidance on Board effectiveness, Financial Reporting Council, 2018 (Guidance to stimulate boards' thinking on how they can carry out their role and encourage them to focus on continually improving their effectiveness. The guidance is useful but to note that it relates specifically to the Corporate governance code for large, profit making FTSE 350 and FTSE 100 companies, all of whom have shareholders)
- Leadership and control, National Housing Federation, 2011 (Although now nearly 10 years old, this manual for board members still gives useful guidance on key areas of board responsibility)
- Good practice for virtual Board and committee meetings, ICSA, 2020 (An overview of the legal and practical issues for virtual board and committee meetings)
- Guidance on the FCA's registration function under the Co-operative and Community Benefit Societies Act 2014 (Section 8 talks about role of directors)

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Charity Commission guidance

- Exempt charities
- Charities and meetings CC48
- The Essential trustee CC3

Further reading

- Almo Governance – The inside track
- The foundations of good governance, NHS Providers, 2015 (A compendium of good practice including examples of role descriptions, terms of reference and checklists)
- Great governance: impediments and strategies, Cathy Trower, 2015 (A short journal article by an influential American thinker on the governance of non-profit organisations)
- The future Board, ICSA, 2019 (Is the traditional model of the board capable of meeting the expectations we now place on it, and is it the most efficient way of doing so?)
- Next generation governance, ICSA, 2018 (Research into millennial perspectives on the future of governance)
- The Board's new innovation imperative, Linda A. Hill and George Davis, Harvard Business Review, 2017 (The challenges for boards in leading on innovation)
- Future proofing your Board, Heidrick and Struggles, 2020 (How can boards best meet the increased expectations placed on them?)
- Futureproofing, ICSA, 2018 (Technological innovation, the company secretary and implications for corporate governance)

Board composition and recruitment

- Charity Commission CC30 Finding new Trustees
- Sample non-executive director's appointment letter, ICSA, 2019 (A sample letter – not intended as a prescriptive template)

Board remuneration

- Board member pay (NHF 2015)
- Charity Commission Guidance CC11 Trustee expenses and payments

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Board evaluation

- [Board appraisal: the importance of honest conversations, National Housing Federation, 2018](#) (How to plan and conduct a board evaluation)

Further reading

- [How leaders can get honest, productive feedback](#), [Jennifer Porter](#), Harvard Business Review, 2019 (Advice on seeking and acting on feedback)

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C. Reporting (Principle 3)

Code ref	Item	Comment
	Board reporting	
3.5 (1)	Committee reporting to board on work / delegated authority	To be reported regularly. This can be a summary (verbal or written) of the issues discussed at each committee meeting.
	Documents	
3.1	Documents defining governance roles and responsibilities	Roles and responsibilities to reflect the requirements of provisions 3.1 – 3.3 to include role profiles and person specification (as required) for the chair, chairs of any committees, board members, terms of reference for board and committees and any panels within the governance structure These to be approved by the board or appropriate committee.
3.1 (6)	Framework of delegations to staff, committees and subsidiaries	
3.2	Essential board functions and matters reserved for the board	This may be included in the board terms of reference
3.3 (1)	Statement of board composition	To be reviewed regularly by the board or appropriate committee
3.4 (1) and 3.5 (2)	Statement of required collective board and committee skills and attributes (often referred to as a skills matrix)	To reflect the requirements of 3.4 (3) and (4). To be reviewed regularly by the board or appropriate committee
3.7 (1)	Board renewal strategy	Strategy to reflect the requirements of provision 3.7 to be reviewed by the board or appropriate committee
3.9 (4)	Programme of learning and development for board members	This should reflect individual as well as collective needs

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	Policies and procedures	
3.8 (7)	Board member disputes and grievance policy and procedures	
3.10	Board and committee member appraisal process	Arrangements to reflect the requirements of provision 3.10. These may be documented in a formal appraisal policy with associated procedures as each organisation sees fit.
	To be made publicly available	
3.1 (3)	Executive board member policy	Required where there are executive board members. A Policy (which may be a simple document stating why executives are on the board or committee and their role to be published in annual report or on the website (possibly within the executive board members biography on the web)
3.4 (6)	Annual information about new / all board members	Information to cover the diversity, skills and attributes of all board members (with regard to GDPR)
3.6 (7)	Annual disclosure of board remuneration	To be disclosed in the financial statements
3.11	Annual statement of compliance with the code of governance	To be agreed by the board and published with the annual report

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D. Information about how smaller organisations may interpret Principle 3

All organisations should have role profiles for each board role and a documented overview of the role of the board. Often the role of the board is contained in the organisation's rules but sample terms of reference for the board and committees and role profiles for the chair and board members are readily available and there are some examples in the good practice and guidance section.

Most small organisations will not have any member of the senior staff team on the board but for those that do, section 3.1 (3) applies.

Functions of the board – this is applicable for all organisations and does not deviate from the 2015 or previous codes of governance.

Board composition

All boards should have regard to the skills and diversity needed to run the organisation effectively. On an annual basis the chair, at least, should have some form of appraisal. For small organisations that do not have a vice-chair it is for the board to decide how best this is done, but best practice dictates that it should be led by board members and not by the chief executive (or equivalent). It may be that, at a minimum, a conversation between the board and chair takes place annually where the discussion revolves around what has gone well and what areas board members would like the chair to concentrate on in the following year. A record of the key points should be made.

Board election, selection and appointment

There should be no reason why smaller organisations cannot recruit a diverse board. Small, community-based organisations have a huge amount to offer prospective board members who want to be involved locally. We appreciate that recruitment or advertising fees may be prohibitive for some, but boards should think about how they can publicise positions as widely as possible: website, notice board at local council offices, local paper, social media, some local volunteering websites are examples.

Annual reporting about any appointments can take the form of a short biography of each board member, noting when they were appointed, key skills and interests and be placed on the website or in its annual report.

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Committees

It is not a necessity for organisations to establish committees. Smaller organisations may have none in which case section 3.5 is not applicable. In this case they will need to decide how best to fulfil functions such as monitoring and managing audit, risk, internal controls, and scrutinising senior staff remuneration, which are commonly delegated to committees.

Board remuneration

A number of smaller organisations, especially those with a development programme, are remunerating the chair and possible other board members. For many of the very smallest organisations, board membership remains voluntary and therefore section 3.6 would be recorded as not applicable.

Tenure and renewal

Some small organisations may find recruiting new board members difficult due to a number of factors. All boards should consider succession planning so that they have an even churn of board members who retire and new skills brought on. The requirement in the 2020 code that a six-year term is now adopted may be challenging to apply in some instances and the code provides flexibility if the organisation feels that there is good reason for a board member to stay on for up to nine years. Each board should, however, carefully consider whether re-electing or appointing a board member for up to nine years is in the organisation's best interests.

Conduct of business

Very few small organisations will have a dedicated company secretary. Providing there is someone who can fulfil the role of company secretary, compliance will be achieved. In deciding whether the role of company secretary should be delivered through a specialised resource or forms part of the duties of an executive or other staff member, organisations need to have regard to their size and complexity, the demands of the role, the degree of independence required of that role, and the ability of anyone occupying that role to be able to offer directly to the board expert advice and guidance. There are recognised constraints for smaller organisations, but it is reasonable to expect large or complex organisations not normally to appoint the chief executive to this role.

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Where someone juggles company secretarial duties alongside other unrelated duties, it is important that the organisation invests in appropriate training and support to them.

Board performance review and learning

We do not expect very small organisations to carry out a full board effectiveness review on an annual basis. For some very small organisations consideration at a board meeting on how well the board has performed, what it could do better, a check that its key documents are up to date and board papers are of a sufficient quality and scope and a reaffirmation of its purpose is sufficient. This should be minuted. Induction for new board members should, at the very least, involve some key papers being sent for reading and the opportunity for the new board member to have a meeting with the chair and any senior member of staff to learn about the organisation. This may also involve a visit to homes or communities and an opportunity to meet some residents.

Compliance with this code

Unless the organisation can provide a compliance statement based on a consideration of all the principles and 'from principle to practice' requirements (if applicable) we suggest that, for very small and non-developing organisations only, the statement in the annual accounts would read:

The organisation has adopted the NHF Code of Governance 2020 and is satisfied that it complies with the spirit of the code and the principles set out in it.

Member appraisal

At a minimum, for very small organisations, the chair should ensure that he/she has a one-to-one meeting with each board member, annually, to discuss how thigs have gone, any issues, any specific learning and development needs such as attendance at conferences or access to housing, care and support or regulatory publications.

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Principle 4 – Control and assurance

A. General guidance about applying Principle 4

Audit (4.1)

External auditors

External auditors are unlikely to be judged to be independent if they also provide significant non-audit services. Where the external auditor provides non-audit services, such as internal audit services, the committee responsible for audit should satisfy itself that there are safeguards in place to ensure that there is no threat to the objectivity and independence of the audit from the provision of such services. There should be a proper and transparent procedure for the selection and periodic review of the appointment of external auditors and good practice suggests a review at least every six years.

Audit committee (4.2)

The code assumes most organisations will have an audit committee or an audit and risk committee. For some this will not be the case and it will be for the board to decide how the audit and risk function is best managed to provide the board with satisfactory assurance in these areas.

Best practice suggests that every board should consider in detail what arrangements for its audit committee are best suited to its particular circumstances. Audit committee arrangements need to be proportionate to the task, and will vary according to the size, complexity and risk profile of the organisation. It is likely that members will periodically need training or briefings to keep their knowledge current.

The main role and responsibilities of the audit committee should be set out in written terms of reference (see the useful resources below for further guidance on contents). In the case of dispute, the board's decision must override that of a committee. The chair of the committee responsible for audit should have the right to report any such decision to the external auditors (and where necessary to external regulatory bodies), after discussion at the board about this proposed course of action. The chair of the committee responsible for audit should have access to paid legal advice from the organisation's appointed or usual legal advisers.

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There is a requirement at 4.2 (5) for a member of the committee to have recent and relevant financial experience. This is in order to ensure that the committee has the skills it needs to undertake its delegated responsibilities and should be understood in the context of the size and complexity of the organisation. 'Recent' is not defined in the code, but can be taken to mean sufficiently recent to equip the person concerned with a good understanding of current best practice and requirements (such as accounting regulations).

Risk (4.3)

Risk and assurance

The board's role in obtaining robust assurance around the effectiveness of controls is now embedded in Principle 4. There is expanded content on audit and risk compared with the 2015 code, to include emphasis on the need for strong internal audit and controls in place, the role and membership of the audit committee, the role of the board in having responsibility for risk management, setting the risk appetite, stress testing and review – including the risks associated with activities carried out by subsidiaries and partnership vehicles.

There is also a section under Principle 4 on compliance – and the board's role and responsibility in ensuring compliance with statutory, regulatory and constitutional requirements. This will include compliance with the law, including health and safety of residents and staff, and regulatory compliance.

Whistleblowing and confidential concerns (4.5)

There is a new 'from principle to practice' section under Principle 4 that addresses the board's (or appropriate committee's) role in having oversight and being involved in issues of whistleblowing and confidential concerns raised by board members or staff.

The board should ensure that proper arrangements are made for the referral and determination of individual cases raising issues of conflicts, ethics or probity. These should include a whistleblowing policy to allow all board members, committee members and members of staff to raise issues of serious concern without the fear of reprisal, while maintaining their duty of confidentiality.

General good practice suggests that whistleblowing should be overseen by the committee responsible for audit unless there is a good reason otherwise. Some

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organisations may have a specific 'people' committee and some may have no committees in which case the responsibility will be vested with the board.

B. Links to useful documents (Principle 4)

Audit and Audit Committees

- Audit and risk assurance committee handbook, HM Treasury, 2016 (Good practice principles and practical guidance)
- Guidance on audit committees, Financial Reporting Council, 2016 (Guidance on the role and responsibilities of the audit committee)
- 9 traits of an effective audit committee, ICAEW, 2018 (The qualities of an effective audit committee)
- Audit quality, FRC, 2019 (A practice aid for audit committees)

Risk management, internal control and assurance

- Risk management, National Housing Federation, 2014 (Guidance for housing association board members)
- Understanding assurance, National Housing Federation, 2014 (Guidance for housing association board members)
- Sector risk profile, Regulator of Social Housing (The annual RSH publication setting out the main risks facing the social housing sector and some of the actions registered providers should be taking to manage those risks)
- Guidance on risk management, internal control and related financial and business reporting, Financial Reporting Council, 2014 (Guidance directed primarily at publicly listed companies)
- Assurance frameworks, HM Treasury, 2012 (Guidance directed primarily at central government departments and their arm's length bodies)
- Board assurance: a toolkit for health sector organisations, Baker Tilly, undated (Practical advice on developing the board assurance framework)
- A survey of practice: Board assurance frameworks, Good Governance Institute, 2018 (Guidance on what is currently considered to be a good board assurance framework)
- The four lines of defence, ICAEW, 2018 (Helpsheet describing the four lines of defence model of assurance (also known as 'three lines of defence')
- Assessing the system of internal control, KPMG, undated (Questions for the audit committee to consider about internal control)

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Further reading

- Enterprise risk management. Integrating with strategy and performance, Committee of Sponsoring Organizations of the Treadway Commission, 2017 (Highlighting the importance of considering risk in both the strategy-setting process and in driving performance)

Compliance

- Regulating the Standards (March 2020)
- Charity Commission regulations return (For organisations that are also regulated by the Charity Commission)
- National Housing Federation Model Rules 2015
- Guidance on Modern Slavery statement

Whistleblowing

- Whistleblowing guidance and code of practice for employers, Department for Business Innovation and Skills, 2015 (Government guidance for employers on whistleblowing)
- Whistleblowing: prescribed persons guidance, Department for Business Energy and Industrial Strategy, 2017 (Although directed at 'prescribed persons' it provides guidance to others involved in the handling of whistleblowing incidents)
- Protect: Free confidential whistleblowing advice and training

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C. Reporting (Principle 4)

Code ref	Item	Comment
	Board reporting	
4.5 (2)	Regular reporting on whistleblowing matters and the response	Reporting to the board or an appropriate committee
	Documents	
4.3 (2)	Risk management framework	Framework to reflect the requirement of provision 4.3.
4.3 (3)	Risk appetite statement	To be established and reviewed by the board
4.3 (4)	Business continuity plan	To be comprehensive, tested and up-to-date and reported to the board or delegated to an appropriate committee.
	Policies and procedures	
4.5 (1)	Whistleblowing policy and procedures	
	To be made publicly available	
4.3 (8)	Annual risk management report	To be included in the organisation's annual report (financial statements)
4.4 (3)	Annual compliance and internal control statement	To set out the board's approach to compliance and internal control (normally published in the annual report (financial statements)

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D. Information about how smaller organisations may interpret Principle 4

Audit

If the organisation does not have an audit committee, the board will need to ensure that there are arrangements for it to be assured that there are effective controls in place. It will also have a direct relationship with any internal and external auditor.

Risk

All housing associations regardless of size must consider the risks they face and have a means by which they can manage them. If an organisation does not have a dedicated risk committee (or audit and risk committee, or audit and assurance committee) the board needs to take full responsibility for all issues relating to risk including evaluation of risk and scrutiny of controls and assurance.

Compliance

Very small organisations will need to find a mechanism to be assured that the health and safety of their residents and any staff is in place and that the organisation complies with its legal duties. For those organisations with no staff, a board member may be designated to fulfil the role of ensuring compliance in these areas are met. The board may outsource the work to an external company which reports to it periodically.

Whistleblowing and confidential concerns

If the organisation employs any staff, those staff need to know who to go to on the board if they have any concerns. This would typically be the chair, but it is for the board to decide this.

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