



The NHF Governance Code

20 years on tour and still going strong



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Why change again?

- ⇒ Changed regulatory & business environment
- ⇒ New HCA standards and 'code'
- ⇒ Developing understanding of good governance in HAs
- ⇒ Other sectors forging ahead
- ⇒ Good governance really does matter

What's changed for 2015?

- ⇒ Clarity about requirements, principles and provisions
- ⇒ New and re-organised sections: shorter
- ⇒ Some new material
- ⇒ Good practice? Or further consideration
- ⇒ Progressing view of good governance – risk, behaviour, diversity

Section by section ...



A. Compliance with this code

- ➔ Entirely new section
- ➔ Comply or explain, explained ...
- ➔ Publish annual statement of compliance in annual financial statements
- ➔ Reasoned statement about areas where don't comply
- ➔ Plans to comply (if any)
- ➔ Was previously in guidance and preamble

B. Constitution and composition of the Board

- ➡ Effective leadership and control, act in best interests
- ➡ You decide your best composition
- ➡ At least 5, no more than 12
- ➡ Appoint a company secretary (new)
- ➡ Shareholders should support compliance with the code
 - *Open or closed membership?*

C. Essential functions of the Board and Chair

- ➔ Combined section
- ➔ Clarity on Board duties – formally recorded & available to all members
- ➔ New – behaviour element
 - *Set positive culture with strong customer ethos*
 - *Ensure effective, efficient, economic operations*
 - *Oversight, direction and constructive challenge*
- ➔ New – groups – parent can intervene, determine how code applies to subsidiaries, hold them accountable for delivering objectives
- ➔ Chair responsible for leadership

D. Board skills, renewal and review

- ➔ Substantially rewritten section
- ➔ Recruitment to vacancies is open & transparent, based on skills & attributes needed – select people on merit – undertake regular appraisals of members & Board
- ➔ Strategy for renewal (new)
- ➔ Maximum tenure of 9 years, 2 or more consecutive terms (new – all Board member service)
- ➔ Formal reassessment at end of each individual term of office (new) – don't reappoint for at least one full term
- ➔ Consider diversity implications (new)
- ➔ Proper induction, ongoing learning

D. Board skills, renewal and review (cont'd)

- ➔ Where nominations/direct elections in place, *'the organisation must ensure that those coming forward bring skills and experience that meet the needs of the board, and that they are fully aware in advance of the responsibilities that they will undertake. **New Board members must not be appointed without undergoing a due selection and assessment process to establish their suitability**'*
- ➔ Rigorous appraisal for members and committees and chairs at least every two years
- ➔ Objective mechanism for Board payment levels

Term limits

- ⇒ Originally very controversial
- ⇒ Still very hot topic in Scotland, Wales
- ⇒ Experience of problem cases does support code approach
- ⇒ A blunt instrument, but the best there is
- ⇒ Six years plus three exceptionally?

What about LSVTs?

- ➔ The 5/5/5 model
- ➔ Many no longer have LA nominations
- ➔ The LSVT model is fine for delivering the promises, but not always beyond
- ➔ Nomination/election route is at odds with company director responsibilities
- ➔ Skills really do matter
- ➔ New provisions will help positive change

E. Conduct of Board and committee business

- Act effectively, make clear decisions based on timely & accurate information. Establish committees where provide expertise, and helpful
- Formal review at least every three years (new) of governing instruments, standing orders, delegations, timing & frequency of meetings but... consider annually effectiveness
- No paid staff as members of nominations, remuneration, audit or risk
- Chair of Board can't chair remuneration or audit

Role of committees

- ⇒ General move away from complex committee structures
- ⇒ Smaller boards meeting more frequently
- ⇒ Braver delegation to executive
- ⇒ Task and finish groups
- ⇒ The 'try without and see' approach

F. Audit and risk

- ➔ Growing importance of audit and business assurance – compliance in focus
- ➔ Formal and transparent arrangement for considering how organisation ensures financial viability, manages risk etc.
- ➔ Appropriate systems for business assurance (new)
- ➔ Interaction with HCA Code 2015

F. Audit and risk (cont'd)

- ➔ Committee for audit (role of independent scrutiny and challenge – new) and internal audit function
- ➔ Minutes available to all
- ➔ Decisions taken to the Board for noting or endorsement

F. Audit and risk (cont'd)

- ⇒ Audit Chair – either member or reports to Board (new)
- ⇒ Chair of Board and execs can't vote at Audit (new)
- ⇒ Review individual and combined risks (new)
- ⇒ Board retains overall responsibility for risk management & risk tolerances

G. Chief Executive

- ⇒ Clear working arrangements between the Board and CE and clear delegation of authority
- ⇒ Board considers reviewing CE's contract of employment at least every 3 years (new)
- ⇒ Board delegates to a committee oversight of CE appraisal and recommendations on remuneration
- ⇒ Disclose remuneration in annual financial statements
- ⇒ Board must specifically approve & note decisions for:
 - *Notice or more than six months*
 - *Other material payments or benefits if contract terminated (new)*

H. Conduct, probity, openness

- ➔ Combined section
- ➔ Maintain & **be seen to maintain** highest ethical standards of probity & conduct. Operate openly, transparently
- ➔ Avoid suggestions of impropriety
- ➔ Potential conflicts: policies & procedures for declaration & mgt
- ➔ Take action on conflicts
- ➔ If members of more than one Board in a group, formal arrangements to identify/manage any conflicts (new)
- ➔ Publish annual report of activities and performance
- ➔ Strategy to communicate with stakeholders & get their views, taking account of comms needs (new)
- ➔ Respond in considered way to requests for info (new)

What's gone?

- ⇒ Section on diversity integrated throughout
- ⇒ Good practice that's an extension to the code

Overview

- ⇒ Code compliance no absolute guarantee of good governance
- ⇒ But a good start
- ⇒ Demanding, but not unreasonable
- ⇒ HCA expects compliance with chosen code – regulatory judgements

Regulatory Judgements

- ⇒ Some common themes
- ⇒ Non-compliance with chosen code
 - *Renewal & lack of challenge*
 - *Size*
 - *Appraisals*
- ⇒ Concerns over Board skills
- ⇒ Board not understanding complexity & risks
- ⇒ Poor internal controls

In conclusion

- ⇒ New Code is more demanding
- ⇒ Codes can't specify behaviours, team-working, nature of challenge
- ⇒ Sets a baseline for sector, and its reputation
- ⇒ Thanks to those who advised and challenged (!)

Through the turbulence with good governance ...



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