HM Treasury

Cabinet Office

Corporate governance in central government departments:

code of good practice - guidance note

April 2017

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Preface

This guidance is designed to support how departments practically implement the requirements in the *Corporate governance in central government departments: code of good practice 2017*.[1] There is no 'comply or explain' requirement in relation to the contents of this guidance. Departments are not required to follow the approaches set out here and should consider how relevant the guidance is to their own circumstances. The code is intended to be a living document. It will evolve in line with best practice in the public, private and charity sectors.

The focus of the code, and therefore of this guidance, is on ministerial departments. Non-ministerial departments are encouraged to adopt the practices set out in the code and guidance wherever this is relevant and practical. The code and guidance were produced jointly by HM Treasury and the Cabinet Office.

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[1] Available on www.gov.uk

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1 Role of the board

1.1 The role of boards is covered in Chapter 2 of the code. It is important that departments have an effective board that can provide leadership and scrutinise and challenge the department's performance.

1.2 The board should support ministers and senior officials in directing the business of the department in as effective way as possible, with a view to the long-term health and success of the department.

1.3 The board should collectively affirm its understanding of the purpose of the department and should agree and document its role and responsibilities in a Board Operating Framework.

Board operating framework

1.4 Each board should tailor its Board Operating Framework (BOF) to reflect its own circumstances. This guidance should be read in that context and not as a blueprint for all boards to follow. The key objective of a BOF is to clarify roles and responsibilities of the board and its members. Each board should:

- agree such a document soon after formation
- update the document regularly, including when there is a change of circumstances or a change of key personnel
- review and update the document at least every two years

1.5 All new board members should be directed to the BOF as part of the induction process.

1.6 The BOF should normally cover the areas set out below.

Purpose

1.7 The BOF should begin by explaining the department's vision and purpose. Explain how the department's policies are set (e.g. by ministers, coordinated with other departments, consistent with the department's budget and resource constraints).

1.8 The BOF should then describe how the board supports ministers, the accounting officer and other senior officials in directing the business of the department. It should set out the way in which the board discharges its responsibilities, in particular by collectively scrutinising and advising on the five areas set out in the code (performance, strategic clarity, efficiency, capabilities and risk). The BOF should also state how often the board meets.

Membership

1.9 The BOF should set out the membership of the board, the chair (this should be the lead minister in the department) and the deputy chair (normally either the next most senior minister or the lead non-executive board member. The board should comprise approximately 9 to 12 members, as follows:

- between 2 and 4 ministers, including the lead minister
- 3 or 4 officials, including the permanent secretary and finance director
- at least 4 non-executive board members, including a lead non-executive board member

Roles

1.10 The BOF should summarise the role of the chair. This might include:

- facilitating board meetings
- ensuring that systems are in place to provide board members with accurate and timely information of good quality to allow the board to consider properly all matters before it
- ensuring that a board effectiveness review is performed annually, with independent input at least every three years, and that results are acted upon
- collating feedback on the permanent secretary on their performance in leading the organisation and delivering its objectives
- ensuring adherence to the comply or explain principle set out in the code

1.11 The BOF should set out how non-executive board members are appointed (on merit, reflecting ability and experience; for a fixed term; etc.) and their main roles. These might include:

- using their experience to challenge and support the board, acting corporately and not simply reflecting their own functions
- ensuring that the board obtains and considers all appropriate information
- advising on the operational and delivery implications of policy proposals
- forming an audit and risk assurance committee and a nominations committee
- involvement in the processes for recruitment and appraisal of senior executives, and succession planning
- involvement in the processes for recruitment of public appointees
- reporting their views in their own section of the department's annual report
- feeding their views back to the Prime Minister and the Government Lead Non-Executive, through the cross-government network of lead non-executive board members
- contributing to work outside of the board, such as leading independent reviews

1.12 The BOF should also set out the role of the lead non-executive board member in meeting with other non-executive board members, making the lead minister aware of any concerns they have and acting as a contact with non-executive board members in other departments and with the cross-government network of lead non-executive board members.

1.13 The BOF should set out the role of the permanent secretary in relation to the board, for example:

- notifying the board of any matters that threaten the regularity, propriety or value-for-money with which the department carries out its business
- notifying the board of any significant issues which may impact on the department's leadership, medium-term capability and significant risks to delivery of policy, along with mitigating actions taken
- consider reference to the specific role of the finance director or any other board member

Board committees

1.14 The BOF should identify, and briefly explain the structure and purpose of, committees that support the board. These should include the audit and risk assurance committee and the nominations committee, as well as any other committees the board deems appropriate.

Decisions and reporting

1.15 This section of the BOF should identify those matters always dealt with by the board, for example:

- the single departmental plan
- appropriate operational strategies to best implement policies set by ministers
- the acceptable level of risk appetite for the department
- strategies affecting long term capability of the department (including finance, HR, and IT)
- budget allocation
- the shape and coverage of the governance statement

1.16 The BOF should also include reference to those matters that are delegated but where the board expects to receive reports for approval or decision as necessary, such as:

- performance against internal targets
- management of relationships (e.g., with arm's length bodies)

1.17 It also needs to set out the main categories of information considered at board meetings, such as:

- progress against single departmental plan milestones and metrics
- progress and status of major projects
- performance against key efficiency metrics
- risk management
- scrutiny of performance of the department's sponsored bodies
- management information relating to use of resources compared to budgets, cash flow and balance sheet movements

1.18 The BOF should also set out the board's role in reviewing, prior to publication, documents such as the departmental report and accounts and the governance statement (including a comply or explain account of performance against the code).

Effectiveness of, and support to, the board

1.19 The BOF should set out how the performance of the board is appraised and what support (such as induction facilities and access to departmental resources and officials) is provided. The board secretary should normally act as a focal point for non-executive board members and should provide assurance to the board on compliance with the code.

Relations with arm's length bodies

1.20 The board defines the relationship of the department with each of its arm's length bodies (ALBs), including strategic decisions relating to: establishment, status, structure, changes of status, changes of scope, mergers and reviews.

1.21 The board is responsible for ensuring that the department has an overview of, and oversight for the performance and financial position of each of the department's ALBs.

1.22 The board should have oversight of the working relationships between the departments and its ALBs, ensuring that a proportionate framework in line with current good practice[1] has been established with necessary engagement and assurance mechanisms in place. The board should ensure that any underperformance or drift in ALBs is followed up appropriately.

1.23 The BOF should also set out the relationship, including cross-membership or attendance as observers, of the board and ALB boards.

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[1] In particular, as set out in *Partnerships between departments and arm's length bodies: code of good practice* www.gov.uk/government/publications/partnerships-with-arms-length-bodies-code-of-good-practice

2 Board composition

2.1 Board composition is covered in Chapter 3 of the code. The board must contain a good mix of skills and experience that will enable it to provide effective scrutiny and support.

2.2 The code sets out the expected membership of a board; being comprised of ministers, senior officials and non-executive board members. Departments should aim to ensure that the board has roughly equal numbers from each group. The optimum size for a board is nine to twelve members and departments should look to constitute a board within this range, subject to the unique circumstances of the department.

2.3 As part of a regular review of board effectiveness led by the lead non-executive board member, the mix of skills and experience of a board's members should be periodically assessed for sufficiency and relevance to the evolving role of the department and changes in the wider context in which the department operates.

2.4 Ministerial, official and non-executive board members should develop a relationship of mutual respect such that constructive challenge is accepted and expected as an essential aspect of good governance.

2.5 The lead non-executive board member in a department may be asked to take on many of the tasks normally fulfilled by the chair outside of meetings. Most notably, this may involve tasks to maximise board effectiveness. The lead non-executive board member may be asked by the lead minister to chair some elements of the board's discussions.

2.6 The code provides for non-executive board members to recommend the removal of a permanent secretary, but they should only do so in extreme cases, where it is felt that the permanent secretary is an obstacle to effective delivery. Such a recommendation should be made only after all other reasonable channels have been exhausted, including non-executive board members raising their concerns directly with the permanent secretary, either privately or at a departmental board meeting.

2.7 On the advice of the permanent secretary, the lead minister is responsible for the appointment of executive members. Executive board members should be appointed to the board for:

- the skills and experience that they can bring to discussions
- their ability to act corporately

2.8 In addition to the permanent secretary and the finance director, it is normal practice to appoint the second permanent secretary (if there is one) to the board.

2.9 The chair should encourage all board members to express their views frankly and challenge constructively in order to improve the standard of discussion in board meetings. Official board members should appreciate that constructive challenge from non-executive board members is an essential aspect of good governance and should encourage non-executive board members to probe proposals, as well as providing advice and support.

2.10 The tenure of board members should be limited and defined in the board operating framework. Permanent secretaries and other senior officials serving on the board should normally hold their positions for a term of four years (in line with senior civil service appointments), renewable, subject to criteria determined by the board.

2.11 Departments should aim to achieve boards that are diverse in their membership, in particular taking into account the Government's aspiration that women should comprise at least 50% of new appointments to the boards of public bodies. One way in which departments can demonstrate their commitment to diversity, and securing the real benefits it can bring, is through appointments of non-executive board members from underrepresented groups. A lack of diversity could restrict the range of the board's experiences and connections, as well as potentially indicating a failure to make full use of available talent.

Appointment of non-executive board members

2.12 Non-executive board members in Whitehall will be appointed by the Secretary of State. The appointment of lead non-executive board members will be on the approval of the Prime Minister. The Centre for Public Appointments, Cabinet Office will provide advice and support to departments on the appointments process.

2.13 The appointment of all non-executive board members will follow the principle of selection based on merit. To achieve this, the process will be open and transparent, meaning that information must be provided in the public domain about vacancies, the process of appointment and the appointments made.

2.14 Candidate non-executive board members must demonstrate that they are committed to, and have an understanding of, the value and importance of the seven principles of public life. All candidates must be asked to disclose any actual, potential or perceived conflict of interest, and these must be discussed with the candidate to establish whether and what action is needed to avoid a conflict, or the perception of a conflict, taking account of advice received from the Cabinet Office Propriety and Ethics team, as appropriate.

2.15 It is recommended that the appointment panel includes the Secretary of State, the permanent secretary of the department and the Government Lead Non Executive (for appointments to the role of lead non-executive board member) or lead non-executive board member (for all other non-executive board members). The Secretary of State may wish to delegate the assessment of shortlisted candidates to the permanent secretary and a lead non-executive board member, and to make their selection based on the recommendations of the panel. Departments should ensure that the appointment panel is gender diverse; the Centre for Public Appointments can advise on this process.

2.16 The Secretary of State should obtain the approval of the Prime Minister before he or she appoints the lead non-executive board member.

2.17 Non-executive board members on departmental boards are not employees and they do not benefit from temporary civil service status.

2.18 A formal letter of appointment should be issued to non-executive board members. All non-executive board members must be clear about the rules on conduct and on declaring and managing conflicts of interest, and that they are subject to the normal rules on confidentiality.

2.19 Previous or current political activity should not be an automatic bar to appointment. However, in line with the general principles already in place for non-executives on the boards of public bodies, they will need to exercise proper discretion and avoid engaging in political activity or making political statements on matters directly related to the work of the department. Serving as a non-executive board member will also impose restrictions on taking up new appointments and/or employment while in post which could give rise to a conflict – and for a period after leaving office. All such matters should be discussed in advance with the permanent secretary.

2.20 Non-executive board members will be remunerated in accordance with the guidance for approval of senior pay issued by HM Treasury.[1]

2.21 The term for non-executive board members should be three years and may be extended for one further term of three years.

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[1] www.gov.uk/government/publications/senior-civil-service-pay-and-reward

3 Board effectiveness

3.1 Board effectiveness is covered in Chapter 4 of the code. An effective board is vital if a department is to receive proper scrutiny and support.

Induction, development and training

3.2 The lead non-executive board member, through the permanent secretary and the board secretary, should ensure that new board members receive a full formal and tailored induction on joining the board. This induction should cover such issues as:

- general information about Parliament
- accountabilities within Whitehall and the complexities of central government departments
- principles of corporate governance in government
- the roles of the board and individual board members, including expectations of corporate behaviour
- a suitably tailored program designed to promote understanding of the specific business of the department

3.3 The emphasis of the induction will vary depending on the individual and their experience and knowledge of the public sector and the department.

3.4 The lead non-executive board member should ensure that:

- all new non-executive board members attend the cross-government induction for non-executive board members
- non-executive board members attend appropriate cross-government networks, such as that run by the Government Lead Non Executive

Board information

3.5 Board papers must be fit for purpose. Papers should be relevant, concise and enable the board to understand the background and issues for effective debate, advice and challenge. Board information should be drawn from readily available and reliable sources. Care should be taken not to duplicate reporting requirements (e.g., making full use of existing reports), or to collect information that is not used.

3.6 Board information should cover the main areas of board responsibilities, along with background on the department’s policy portfolio:

- Strategic clarity – assessment of strategic fit across the policy portfolio, taking into account both direct and indirect contribution to the department’s strategy. Where appropriate, relevant performance information about comparable organisations
- Commercial sense – information on project management and on the financial and human resourcing status of the department, as well as on the status of any organisational change and restructuring programmes
- Talented people – information and access to key staff to allow an assessment of the department’s capability to plan and deliver current and future needs

- Results Focus – qualitative and quantitative analysis of the performance of all aspects of the department's activity. This will include:
    - an assessment against key performance indicators in the Single Departmental Plan
    - any other activities not picked up in those documents, including operational performance, e.g., through a balanced scorecard or similar tool
    - management accounts for the department, including income and expenditure account, balance sheet, cash flow, key performance indicators and other important analyses appropriate to monitoring the department's business
    - financial information and metrics for the department's ALBs
- Management Information – obtaining and using focussed information on operation and financial performance and risk assurance. Boards should ensure their papers fulfil the requirements of the latest guidance issued by HM Treasury
- Policy Portfolio – although not involved in setting policy, boards need to be aware of the department's policy portfolio in order to scrutinise performance. Board information should therefore include background information about the department's policy areas

3.7 There is significant variation between the nature of each department's business. Therefore, each board should agree the form and content of regular reports it considers to match the range of departmental business. From time to time, the board may also want to consider other reports, such as board effectiveness reviews, the findings of capability reviews and the results of spending reviews. Board information should usually be accompanied by appropriate analysis. Where data are estimated or otherwise uncertain, there should be clarity about the degree of confidence that can be placed in them.

Board secretary

3.8 The board secretary should be accountable to the board and report directly to the permanent secretary, with direct access to both the chair and lead non-executive board member.

3.9 An effective board secretary is essential for an effective board. A good board secretary needs to possess strong organisational skills. They should receive appropriate training and should normally be a member of the senior civil service. The board secretary needs good judgement, gravitas and the ability to deliver. This should be supported by:

- clear backing from the permanent secretary and chair
- a background in and experience of corporate governance
- direct reporting lines to the permanent secretary
- networking with other board secretaries to stay abreast of good practice

3.10 The board secretary may also have other responsibilities, as agreed with the board, which could include:

- assisting the chair to prepare the forward agenda of the board
- involvement in external communications and annual reporting

- co-ordination of secretaries to board committees and/or the wider departmental family
- compliance issues

Performance evaluation

3.11 Effectiveness evaluations should include the board, its committees and its individual members. This evaluation should be incorporated in the normal line management appraisals of the executive board members, and any other appraisal processes that are in place for the ministerial board members and non-executive board members.

3.12 When an external facilitator is used for an effectiveness review, any connection with the department should be disclosed to the board.

3.13 The chair of the board should ensure there is a mechanism for evaluating their own performance as chair. This should take into account the views of executive board members, ministerial board members and the board secretary.

Conflicts of interest

3.14 Each member of the board should take personal responsibility to declare pro-actively any potential conflict of interest arising out of business undertaken by the department, arising on the board’s agenda or from changes in the member’s personal circumstances. Any such conflict should be discussed with the chair of the board and the permanent secretary. The chair of the board should then determine an appropriate course of action with the member, in consultation with the permanent secretary. For example, the member might simply be asked to leave while a particular item of business is taken, or in more extreme cases the member could be asked to stand down from the board. A key factor in determining the course of action will be the likely extent and duration of the conflict of interest; a conflict likely to endure for a long time is more likely to suggest.

4 Risk management

4.1 Risk management is covered in Chapter 5 of the code. The board should aim to ensure that effective risk management systems are in place. Board members should consult *Management of risk in government*,[1] which provides a high-level framework of good practice for risk management within departments. It includes a checklist of questions for board members to advise and challenge risk arrangements.

4.2 The *Audit and risk assurance committee handbook*[2] is the principal source of guidance for audit and risk assurance committees. It sets out how the audit and risk assurance committee should support the board with regard to the comprehensiveness and reliability of assurances on governance, risk management and internal control.

4.3 To fulfil the requirements of establishing an audit and risk assurance committee, departments might choose to establish two separate committees:

- an audit committee, with a focus on assurance arrangements over: governance, financial reporting, annual report and accounts, including the governance statement (including areas formerly covered by the statement on internal control)
- a risk committee, with a focus on ensuring there is an adequate and effective risk management framework in place

4.4 Where separate committees are established, the remit of each should be clearly set out in the BOF and each should ensure they refer to the *Audit and risk assurance committee handbook* for guidance, as appropriate.

4.5 It is good practice for more than one member of the audit and risk assurance committee to have recent and relevant financial experience. It is also good practice for the audit and risk assurance committee to comprise non-executive board members of the board to ensure the committee understands the department's business.

4.6 The committee would normally expect to have access to departmental finance and audit staff, arranged through the board secretariat.

4.7 The work of ALBs within a departmental family may have significant overlap. In such cases, it may be appropriate for a shared audit and risk assurance committee arrangement or membership crossover, for example, with ALBs within a departmental family.

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[1] www.gov.uk/government/publications/management-of-risk-in-government-framework

[2] www.gov.uk/government/publications/audit-committee-handbook

5 Arm's length bodies

5.1 Arm's length bodies (ALBs) are covered in Chapter 6 of the code. Where the department is responsible for one or more ALBs, the board should establish a good working relationship, and appropriate governance arrangements, with each ALB's board. Relationships should be conducted in accordance with the principles and standards set out in *Partnerships between departments and arm's length bodies: code of good practice*.[1]

5.2 The departmental accounting officer may delegate accounting officer responsibilities to a senior official within an ALB. This delegation does not absolve the departmental accounting officer of their accountability to Parliament, as set out in Chapter 1 of the code. Where responsibilities are delegated in this manner, the departmental accounting officer should ensure that there is both visibility and assurance over the fulfilment of the accounting officer responsibilities by the ALB accounting officer in order to ensure that they are discharged satisfactorily.

5.3 There should be harmony in the discharge of the responsibilities of the departmental accounting officer and those of the ALBs' accounting officers. In particular, all accounting officers must consider their value-for-money obligation judged from the point of the wider exchequer and not just in the context of their department or ALB.

5.4 The departmental accounting officer should ensure there are systems to monitor and steer the accounting officers in the department's ALBs. A departmental accounting officer may use a number of mechanisms to achieve this, including:

- dialogue between sponsor teams in the department and the ALB
- assurance through the governance statement (including the areas formerly covered by the statement on internal control)
- the use of the internal audit service reporting to the departmental accounting officer, which has the right to access the ALB for assurance on regularity, propriety and value-for money, as outlined in *Managing Public Money*. This may be more flexibly achieved where a grouped internal audit arrangement is in operation

5.5 ALB accounting officers may also be called to account by the Public Accounts Committee, alongside the departmental accounting officer.

Framework documents

5.6 Guidance on framework documents is set out in *Managing Public Money*. Sponsor teams should seek assurance that ALBs are operating in keeping with their framework documents.

5.7 A memorandum of understanding can be used to supplement a framework document. A memorandum of understanding outlines more detailed responsibilities of the ALB and its sponsor team, for example, information requirements and assurance required on the quality of information.

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[1] Available on www.gov.uk

Levers of control over ALBs

5.8 A departmental accounting officer should be prepared to use the mechanisms for ensuring accounting officers in the department's ALBs fulfil their accounting officer responsibilities. In extremis, these might include:

- exercising shareholder or guarantor control if the ALB is a company
- withdrawal of the delegated accounting officer's responsibilities in the ALB

5.9 Departmental accounting officers may also have lesser, and arguably more effective, powers of intervention, including:

- through negotiations on the corporate plan
- the ability to withdraw or change delegated authorities (typically to require more frequent referrals to the host department)
- the right to remove board members (whether actively or by not renewing appointments)
- attaching conditions to grants
- requiring the ALB to report financial data and provide assurance on information more regularly

5.10 Such mechanisms should be clearly articulated in the ALB's framework document or memorandum of understanding.

Reporting lines for heads of profession

5.11 The framework document should provide for an open dialogue in line with the professional lines between a department and its ALBs. Notably, the departmental finance director should be able to make direct contact with the ALB's finance director in order to share information and discuss performance and the use of public resources.

5.12 The ALB framework document should outline these roles and responsibilities of the department and ALB, including appropriate escalation mechanisms.

5.13 A framework document may also provide for a grouped internal audit service to make effective use of skills and resources flexibly between a department and its ALBs, notwithstanding that audit services may be shared with organisations outside the departmental family.

Department and ALB cross board representation

5.14 Careful consideration should be given to whether or not there is a departmental representative on the board of an ALB. It is good practice, as a minimum, for a departmental observer to attend board meetings of significant ALBs. This should be to inform discussion and strengthen relations with the departmental board, without being seen to enforce a departmental perspective or stifle open discussion. Again, roles and responsibilities should be defined in the framework document.

5.15 A departmental board may also include a member who is an ALB board member, subject to appropriate appointment guidance being followed. In this capacity, such board members should act in the best interests of the department, rather than as lobbyists for their own ALBs.

Sponsor teams

5.16 Each sponsor team has a critical role in maintaining the relationship between the department and the ALB. The sponsor team partnering an ALB represents the position of the departmental accounting officer, with a clear remit and expectation of support from the departmental accounting officer, including, in extremis, the use of levers noted above.

5.17 Departmental accounting officers should ensure that each sponsor team:

- is led by an official of sufficiently senior grade with appropriate experience and skills, both sufficient to deal with day-to-day management and for periodic interaction with senior officers of the ALB
- has a clear remit within which to manage the relationship with an ALB
- has agreed escalation routes for issues, and a clear understanding of how the departmental accounting officer and board will support the team to manage the relationship
- receives adequate training
- has a clear understanding of the department's and ALB's objectives
- has a clear understanding of the difference between information required for reporting purposes (e.g. financial information required for the department's resource accounts) and information required for oversight purposes, such as understanding the business of the ALB

5.18 The sponsor team relationship should not be a substitute for an appropriate level of interaction between the ALB's accounting officer and the departmental accounting officer, or other senior relationships. The direct accounting officer relationship could be used to:

- communicate key government and departmental priorities and issues
- articulate the departmental board's role in relation to the ALB

ALB reviews

5.19 Departments should review their ALBs, in line with the guidance on reviews of public bodies issued by the Cabinet Office,[2] to ensure they remain fit for purpose, well governed and properly accountable for what they do.

Other points

5.20 The appraisal of departmental accounting officers should consider how well they manage departmental relationships with their ALBs. It would be appropriate for departmental accounting officers to receive input from some of their ALBs' accounting officers as part of the appraisal process.

5.21 ALBs should publish performance information online to increase transparency and focus the sponsorship relationship on performance. Benchmarking in information should be used to measure ALBs against other similar organisations.

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[2] www.gov.uk/government/publications/tailored-reviews-of-public-bodies-guidance

HM Treasury contacts

This document can be downloaded from
www.gov.uk

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