

# Code of Governance

Promoting board excellence  
for housing associations  
(2015 edition)

**NATIONAL  
HOUSING  
FEDERATION**

Adopted by



By its Board of Trustees on 15 June 2015

## **The principles of good governance**

The nine principles set out below are those which have informed the drawing up and subsequent revision of this code. They are reproduced here, not as part of the code, but to help with its interpretation and implementation.

The foundation of good governance is that there should be a balanced, diverse and effective board which leads and controls the organisation and complies with its legal requirements. The board should ensure that the organisation upholds the following principles:

### **Ethics**

It operates according to high ethical standards, explicit values and appropriate codes of governance and conduct.

### **Accountability**

There is proper accountability to, and involvement of, all the organisation's stakeholders, primarily its residents.

### **Customer first**

It puts the needs of existing and potential service users at the heart of business decisions and strategy.

### **Openness**

There is a spirit of openness, making full disclosure of governance matters and other information.

### **Diversity and inclusion**

There is fairness and equality of opportunity and a recognition of diversity in all aspects of the organisation's governance.

### **Review and renewal**

There are formal and open processes for the periodic review of the board's own performance, which ensure its renewal on an ongoing basis.

### **Clarity**

There is clarity of roles and responsibilities between the organisation's board members, paid staff and shareholders.

### **Control**

There are effective systems for internal delegation, audit, risk management and control. The board receives adequate and timely reports and advice to inform its decisions. The board has an effective relationship with internal auditors, external auditors and regulators.

### **Structures**

There are effective staffing and committee structures to support the board's work.

# The Code of Governance

## A Compliance with this Code

### Main requirement

Organisations which adopt this code must publish an annual statement of compliance with the code in their annual financial statements, and make a reasoned statement about any areas where they do not comply.

### Provisions

- A1** Where a statement of non-compliance is needed, it must:
- 1) be published in the organisation's annual financial statements;
  - 2) be specific to the particular circumstances of the organisation;
  - 3) explain why and how the principles of good governance are being upheld; and
  - 4) set out in summary any plans for the achievement of compliance with the code.
- A2** Where the formal constitution of an organisation conflicts with this code, the constitution must take precedence.

## **B Constitution and Composition of the Board**

### **Main requirement**

The board must be effective in the strategic leadership and control of the organisation and act wholly in its best interest. Board members must ensure that the interests of the organisation are placed before any personal interests.

### **Provisions**

- B1** The core purpose of the board is to determine vision and strategy, direct, control, and scrutinise an organisation's affairs. Where the organisation has staff, operational management of the organisation must be delegated to them, and the board must hold them to account.
- B2** All members of the board, executive and non-executive, share the same legal status and have equal responsibility. Each must act only in the interests of the organisation and not on behalf of or representing any constituency or interest group. Board members must ensure that the interests of the organisation are placed before any personal interests, whether commercial or otherwise.
- B3** It is for each organisation to decide on its best board composition; in the case of a subsidiary within a group, this may be a matter for the group parent organisation.
- B4** Board members who are executive staff must be in a minority. Boards should have at least five members and no more than twelve, including any co-optees and any executive board members.
- B5** A majority of those present must be non-executive board members for a board meeting to be quorate.
- B6** The roles of chair (and vice chair or senior independent director, if there is one) of the board and main committees must not be held by an executive.
- B7** The board must appoint a company secretary (or a person with that function) with a clear accountability to the board, to advise it on compliance with the organisation's constitution, this code, and other statutory or regulatory requirements particularly as relating to their position as board members, company directors, and/or charity trustees as applicable.
- B8** Organisations with shareholders who elect the board must review their policies for admission to shareholding membership on a regular basis and with a view to supporting compliance with this code.

## **C Essential Functions of the Board and Chair**

### **Main requirement**

Each board must be clear about its duties and responsibilities. These must be formally recorded and made available for all existing and potential board members. Each board must be headed by a skilled chair who is aware of his or her duties as leader of the board.

### **Provisions regarding the board**

- C1** The essential functions of the board must be formally recorded. In addition to matters set out in law and in the organisation's constitution these will include as a minimum:
- 1) setting and ensuring compliance with the values, vision, mission and strategic objectives of the organisation, ensuring its long-term success;
  - 2) setting a positive culture, with strong customer focus;
  - 3) ensuring that the organisation operates effectively, efficiently and economically;
  - 4) providing oversight, direction and constructive challenge to the organisation's chief executive and executives;
  - 5) the appointment and, if necessary, the dismissal of the chief executive;
  - 6) satisfying itself as to the integrity of financial information, approving each year's budget, business plan and annual accounts prior to publication;
  - 7) establishing, overseeing and reviewing a framework of delegation and systems of internal control; and
  - 8) establishing and overseeing a risk management framework in order to safeguard the assets and reputation of the organisation.
- C2** The board must formally record a schedule of those essential functions and other significant matters which are specifically reserved for the board's decision and which cannot be delegated.

### **Provisions regarding groups**

- C3** The board of a parent organisation in a group structure must ultimately have the responsibility and the clear powers to direct and if necessary intervene in the governance of its subsidiaries.
- C4** The board of the parent organisation must determine how and whether this code should apply to each of its subsidiaries.
- C5** The constitutional relationship and arrangements between parent and each subsidiary must be formally recorded.
- C6** The board of the parent organisation must approve the group's plans and budgets, and hold the subsidiary boards accountable for delivery of their objectives.

### **Provisions regarding the chair**

- C7** The chair is responsible for leadership of the board and ensuring its effectiveness. The particular duties and responsibilities of the chair must be formally recorded.

## **D Board Skills, Renewal and Review**

### **Main requirement**

Recruitment to board vacancies must be open and transparent and based on the board's considered view of the skills and attributes required to discharge its functions. The board must select or appoint new members objectively on merit and must undertake regular appraisals of its members and of the board as a whole.

### **Provisions regarding renewal**

- D1** Boards must have a strategy for their own renewal which is based on an agreed statement of the skills, qualifications and attributes required, and balances the need for experienced members with that for new thinking and independent challenge. This statement should be reviewed regularly, and whenever the organisation is about to undertake new activities or become exposed to new risks.
- D2** Maximum tenure must be agreed for all non-executives which must in total be nine years or fewer, composed of two or more consecutive terms of office. This maximum tenure must apply to all board member service with an organisation or its predecessors or its subsidiaries.
- D3** Where a member comes to the end of an individual term of office and is eligible for reappointment, this must be subject to consideration of the member's appraised performance and skills, and to the wider needs of the board at that time.
- D4** A member who has left the board after serving the maximum tenure must not be reappointed for at least one full term of office.
- D5** In considering its composition and renewal the board must have regard to the need for a board which includes people from diverse backgrounds and with diverse attributes, to help ensure healthy debate and challenge, and a range of perspectives.

### **Provisions regarding nomination and election**

- D6** Where the board members are elected by a wider shareholding membership, the organisation must support its shareholders so they can play an informed role in the election of board members.
- D7** Where the organisation's constitution provides for one or more board members to be nominated or directly elected, 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.

## **Provisions regarding learning and development**

- D8** So they can discharge their duties all new board members must receive a properly resourced induction, and ongoing learning and development during their tenure.
- D9** A full and rigorous appraisal process for the individual members of the board and its committees, including the chairs, must be carried out at least every two years.

## **Provisions regarding board payment**

- D10** If the organisation is paying board members it must ensure that it has an objective mechanism for establishing payment levels. This will normally be the responsibility of a committee responsible for remuneration, using independent advice and benchmarking as required.
- D11** Payment to non-executive board members must be:
- 1) permitted by law and by the organisation's own constitution;
  - 2) in the best interests of the organisation;
  - 3) reasonable and proportionate to the organisation's size, complexity and resources;
  - 4) linked to the carrying out of the specified duties of the post, against which performance must be reviewed; and
  - 5) fully disclosed on a named basis in the organisation's annual financial statements.

## **E Conduct of Board and Committee Business**

### **Main requirement**

The board must act effectively, making clear decisions based on timely and accurate information. Committees may be established where the board determines that they will provide expertise and enable it to deliver effective governance and manage risk.

### **Provisions relating to the board**

- E1** The board must have formally recorded terms of reference to ensure that its conduct is transparent, effective and in the interests of the organisation.
- E2** Board and committee meetings should, wherever possible, be based on full agendas and clearly presented and accurate documents circulated to members well in advance of meetings. Decisions and the main reasons for them must be recorded in the meeting minutes.
- E3** Urgent decisions between board meetings must be taken in accordance with proper, formally recorded and predetermined arrangements.
- E4** All boards and committees must consider their effectiveness annually and how they conduct their business, including:
- 1) their governing instruments, delegations, regulations, standing orders, structures, systems and other formal documentation;
  - 2) the timing and frequency of meetings;
  - 3) the format of their agendas, papers, minutes and communications;
  - 4) their collective performance as a decision-making body; and
  - 5) their compliance with this code and their legal duties.
- There must be a formal review of these matters at least every three years, to ensure best practice, and that documentation is compliant with the latest legislation and regulations.

### **Provisions relating to committees**

- E5** The chair of the board must not chair the committee responsible for remuneration, nor that responsible for audit.
- E6** Paid staff of an organisation must not be members of the committees responsible for nominations, remuneration, audit or risk.
- E7** Each committee must have formally recorded terms of reference approved by the board, and must report regularly to the board on its work and the exercise of any delegated authority it has been given.

## **F Audit and Risk**

### **Main requirement**

The board must establish a formal and transparent arrangement for considering how the organisation ensures financial viability, maintains a sound system of internal controls, manages risk and maintains an appropriate relationship with its auditors.

### **Provisions relating to audit**

- F1** There must be effective internal controls and appropriate systems for business assurance, so that the board can have confidence in the information it receives.
- F2** The organisation's external auditors must be independent and effective.
- F3** All but small non-developing organisations must have a committee primarily responsible for audit, and arrangements for an effective internal audit function. Other organisations must make effective arrangements for discharging these functions.
- F4** The committee responsible for audit must bring independent scrutiny and challenge to provide the board with assurance, and exercise oversight of the internal and external audit functions.
- F5** The committee responsible for audit must meet regularly and its minutes must be available to all members of the board. The reasons for the decisions taken must be recorded in the minutes and presented to the board for noting or endorsement.
- F6** The committee must be able to meet with the external auditors without executives or other paid staff being present at least once a year.
- F7** The chair of the committee responsible for audit must either be a member of the board or have clear arrangements for reporting to the board.
- F8** The voting members of the committee responsible for audit must not include the chair of the board or any executives.

### **Provisions relating to risk**

- F9** The board must identify and regularly review the individual and combined material risks faced by the organisation and make plans and strategies to mitigate and manage them effectively.
- F10** The board must retain overall responsibility for risk management, and determine the organisation's tolerance of risk. The board may delegate the detailed scrutiny and evaluation of risk to the committee responsible for audit, or to another committee.

## **G The Chief Executive**

### **Main requirement**

There must be clear working arrangements between the board and the chief executive and clear delegation of authority.

### **Provisions**

- G1** The chief executive must be clear about the essential duties of the role and have clarity over his or her legal responsibilities, delegated authority and relationship with the board.
- G2** Like all other employees, the chief executive must have a written and signed contract of employment; the board must consider whether it should be reviewed at least every three years.
- G3** Periods of notice of more than six months and other provisions for material payments to be made or benefits granted in the event of the contract being terminated must be specifically approved by the board with the reasons for the decision clearly minuted.
- G4** The board must delegate to a committee responsibilities that include oversight of the appraisal of the chief executive and making a recommendation to the board on the chief executive's remuneration. The committee must not include any executive members of the board.
- G5** The chief executive's remuneration must be disclosed in the annual financial statements in accordance with the applicable Statement of Recommended Practice (SORP).

## **H Conduct, Probity and Openness**

### **Main requirement**

Organisations must maintain, and be seen to maintain, the highest ethical standards of probity and conduct. Boards must operate in an open and transparent manner, having dialogue with and accountability to tenants and other key stakeholders.

### **Provisions relating to probity and conduct**

- H1** Board membership entails a particular responsibility to avoid any suggestion of impropriety. Matters such as conflicts of interest, or acceptance of gifts or hospitality, are particularly sensitive. Boards must adopt and comply with a code of conduct such as the Federation's *Code of Conduct 2012*.
- H2** Boards must consider any potential conflicts of interest and adopt appropriate policies and procedures for their declaration and management. All conflicts must be dealt with in a way which upholds the organisation's reputation, and reflects, as applicable:
- 1) the organisation's own constitution;
  - 2) charity law;
  - 3) The Co-operative and Community Benefit Societies Act 2014, concerning transactions and dealings with members and committee members; and
  - 4) The Companies Act 2006, concerning how conflicts (of interest, loyalty or duty) are to be declared and managed.
- H3** Where conflicts of personal interest arise these must be recorded and, if material, the individual concerned must be excluded from the discussion or decision by a resolution of the non-conflicted members present.
- H4** In the case of a fundamental or on-going material conflict the board must consider and determine whether the person concerned should cease to be a board member.

### **Provisions relating to groups**

- H5** Where there are persons who are members of more than one board in a group there must be formal arrangements to ensure that if there are any actual or potential conflicts of interest these are identified and managed.

### **Provisions relating to openness**

- H6** The board must publish an annual report of the organisation's activities and performance.
- H7** The organisation must have in place a strategy for regularly communicating information about its work to its shareholders and stakeholders, and ascertaining their views. In doing so, it must have regard to the communication needs of the diverse groups and communities it serves.
- H8** The organisation must respond in a considered and transparent way to requests for information about its work and activities.