

Our Ref: KEH

Your Ref:

London | Cambridge | Oxford | Hong Kong | Singapore

Financial Reporting Council
8th Floor
125 London Wall
London
EC2Y 5AS

13 September 2023

BY EMAIL ONLY**UK Corporate Governance Code Consultation – 2023 – Response from the Mishcon Corporate Governance Group**

Mishcon de Reya is an independent law firm, which now employs over 1300 people with more than 630 lawyers offering a wide range of legal services to companies and individuals. With presence in London, Oxford, Cambridge, Singapore and Hong Kong (through its association with [Karas So LLP](#)), the firm services an international community of clients and provides advice in situations where the constraints of geography often do not apply. The work the firm undertakes is cross-border, multi-jurisdictional and complex, spanning six core practice areas: [Corporate](#); [Dispute Resolution](#); [Employment](#); [Innovation](#); [Private](#); and [Real Estate](#).

We have in the Firm a committed [Corporate governance group](#) advising across a complete range of governance issues facing businesses, large and small. Our governance team is multi-disciplinary, taking instructions not only around putting in place sound governance, but also acting when things go wrong - we have strong investigations, disputes and insolvency practices. This affords us the unique opportunity to see not only what works well, but also how things can go wrong.

Some of our team are members working groups of the Quoted Companies Alliance (QCA), so have been involved already in contributing to the fuller and more detailed response you will be receiving from that organisation.

This response makes some additional points on behalf of the Mishcon corporate governance group.

General points

The UK now benefits from a rich portfolio of Corporate governance guidance, including not only the UK Corporate Governance Code, but also the QCA code for smaller capitalised quoted companies and the Wates Principles for private companies. Despite that, we recognise that the UK Corporate Governance Code and related guidance remains the gold standard in corporate governance reporting in the UK and has influence internationally. It is therefore particularly important that the opportunity is taken in this review to ensure the code remains fit to address what is a fast-evolving world.

General Counsel submission

We have been sent an advance copy of a collective submission by in house counsel on the UK Corporate governance code consultation (the **GC Submission**). In our view, although not the specific focus of the FRC's consultation, the group's submission raises some important questions and points which we would encourage the FRC to explore and take account of. In particular:

1. **The value the GC role can bring to multiple aspects of a sound system of governance:** This is well articulated in the GC Submission. It includes that they will often, through their function, have a sound understanding of legal and associated (including emerging) risks across the business and across organisational boundaries, as well as playing an important role in crafting policy and practice.
2. **Board access for/to the GC:** Acknowledgement that as a separately regulated individual, advising and dealing with issues across the business, the GC should have direct access to the board and its committees and be appointed by the board as a whole. We strongly support the comments made at paragraph 10 of the GC submission – it is important that operational reporting lines should not compromise the independence of the General Counsel.

When revising the Code - and as it conducts round tables on the supporting guidance - we believe that the FRC is well positioned to take account of the points the GC make in their submission. It would also be opportune to take advice on:

1. How the role of company secretary and the in-house counsel work most commonly in practice – it would be useful to survey: how often these roles are combined and how frequently they are separate; and the impact where the role of company secretary is fulfilled by a person with other executive responsibility;
2. The increasing burden on the role of both company secretary and GC and split of responsibility where the roles are not combined; and
3. How frequently the GC is appointed to the board.

As with other revisions to the Code it is important that it not be too prescriptive and be supportive of different models of split or combination of the role of company secretary and GC. It is also to be stressed that the role of company secretary remains an important one, pivotal as they are to supporting the Chair and the effectiveness of the Board. In supporting the GC's submission, we also continue to support the Governance role of the Company Secretary.

Yours faithfully

Mishcon Corporate Governance team

[Redacted signature block]