Response of the Institute of Business Ethics to the Financial Reporting Council consultation on Proposed Revisions to the UK Corporate Governance and Stewardship Codes

Introduction

The Institute of Business Ethics is an educational charity whose objective is to promote high standards of business behaviour based on ethical values.

Governance is an important part of the way in which this can be achieved. The challenges around governance are also evolving as companies seek to address the trust deficit that has come into sharp focus since the global financial crisis ten years ago. Nowadays directors must be concerned not only with the processes around accountability, strategic decision-making and risk oversight. They must also learn to understand and shape the drivers of behaviour within their organisation and consequently its impact on society.

All of these are important issues for the IBE and we are therefore grateful for the opportunity to respond to this consultation. This iteration of the Code is taking place against the background of a sharply different political and business climate compared with previous times. The FRC has rightly therefore sought to broaden its scope in places, and we welcome the fact that it has consulted widely on the need for change.

Getting the right language in place is a delicate task, however, and in some important areas more work may be needed to get the drafting to a point where it commands the broad consensus support on which the Code depends to be effective.

UK Governance Code

General points

The achievements of the UK Governance Code over a quarter of a century rest on the careful way in which it has been drafted. The key has been the setting Principles that are simple, clear, hard to contest, and which command widespread support because of the broad participation not only in the content but also in the choice of language which has helped make the Code distinct from prescriptive regulation. Recommendations on behaviour follow immediately and logically from these Principles. Thus the Code has created a series of benchmarks and expectations which command widespread consensus. The concept of comply-or-explain creates a measure of flexibility and gradualism in the implementation of best practice that in turn promotes a continuous and incremental drive towards higher standards.

Our response points to a number of places where we feel further work on the language is needed if the new Code is to be fully effective. We applaud the effort by the Financial Reporting Council to make the Code simpler and to adapt it to the new challenges in governance, focused around social impact and behaviour. Sometimes this has involved radical change, which reinforces the natural need for careful consensus building around drafting. Some of the Principles are simpler, some more complicated. As a general point we recommend that, when finalising the text, the FRC should look each Principle against the following criteria.

- Is it clear?
- Is it simple?
- Does it set out one objective with which readers will readily agree?

For example the earlier Principle that no one person should have unfettered power met all three criteria. It was natural and logical to follow up with the expectation that the role of Chair and Chief executive be separated.

To take an immediate example from the new draft, Principle A meets none of these criteria. It is neither clear nor simple, being a fusion of several complex ideas and it creates three potentially conflicting objectives, namely to promote long term success, generate shareholder value and contribute to wider society. All of these objectives are laudable and there is a degree to which they are interconnected, but the way in which shareholder value is juxtaposed with social contribution creates a potential conflict of objectives which risks leaving boards confused.

The imposition of conflicting policy objectives can do great damage to the culture and morale of an organisation as the US political scientist Francis Fukuyama showed in a celebrated article charting the decline of the US Forestry Service in Foreign Affairs in the Autumn of 2014[1]. Fukuyama blamed the decline on the imposition of "multiple and often contradictory mandates from Congress and the courts". Principle A does not transgress on this scale, but it goes in the same direction and is problematic nonetheless.

It does not help that nowhere in the Introduction is there an attempt to establish a clear purpose for the Code. Paragraph four of the Introduction alludes to long term success but then goes on to talk about the outcome being reporting which demonstrates how the governance of the company contributes to this. The Code is not about reporting but about the best way for boards to organise themselves.

The core purpose should therefore be to build successful companies that support the economy, no more no less. Sustainability is a very important part of this, but, without this clear overarching objective, there is a risk that the Principles and Provisions will end up larded with ideas and concepts which happen to have caught the imagination of those in a position to influence it, but which do not contribute to the fundamental objective.

On a separate matter, we continue to feel that the Code should give boards the responsibility to oversee the operation of corporate codes of ethical conduct. These are now expected in both the Dutch and New Zealand governance codes and are an important instrument for embedding culture. Our internal benchmarking work shows that 80 out of the FTSE100 companies already have such codes so this would not be an onerous requirement but it would help focus attention on steady improvement in effectiveness.

The Principles

We agree with the distinction made in the draft between the Principles which must be applied and the Provisions which are subject to comply or explain. Where a company has not applied the Provisions, it should explain how its arrangements nonetheless comply with the Principles. The Principles have been neglected and the FRC is right to draw attention to them.

That said, the Principles need to be worded in a way that makes them both absolutely clear and hard, if not impossible to contest. As noted above, **Principle A** imposes three separate objectives on boards: to promote the success of the company, to deliver value for shareholders and to contribute to society. There is scope for conflict and confusion here which risks detracting from the quality of governance.

We would suggest that the Code should reflect directors' duties as set out in the Companies Act 2006, which to centre around promoting the success of the company. The law does not talk about a contribution to wider society. It talks about the need to take account of a range of stakeholder issues which impinge on a company's capacity for delivering long term success. The Principle should be

[1] America in decay, The Sources of Political Dysfunction, Francis Fukuyama, Foreign Affairs, September/October 2014

revised with this in mind and take a hierarchical approach to priorities. A possible version could thus read:

"Boards should provide effective leadership aimed at promoting long–term value creation, which in turn requires consideration of the social impact of the company's activities. The board should ensure that the company's values, purpose and strategy accord with this objective and satisfy itself that its culture and values are aligned."

Principle J is another one which contains potentially conflicting objectives. Appointments cannot be made on individual merit and on objective criteria if they are also designed to promote diversity of gender, social and ethnic backgrounds. Boards will not know to what they should give priority. We believe both that diversity in its broadest sense is important to effective boards and that, when appointing directors on merit, there should therefore be absolutely no discrimination in terms of gender, social and ethnic backgrounds. The second sentence of this Principle could therefore be redrafted as follows:

"Both appointments and succession plans should be based on merit and objective criteria without any form of discrimination in terms of gender, social and ethnic background."

Principle K rightly establishes diversity as a criteria for board evaluation. The wording around diversity in the first sentence could be redrafted to read: "….whether it is sufficiently diverse to avoid group-think and how effectively…." Furthermore, the wording of Provision 23 should be tightened up so that it is no longer softer on diversity than the existing Code provision B.2.4. The original wording is still appropriate.

Principle Q states that no director should be involved in deciding his or her remuneration *outcome*. By including the word outcome, the Principle becomes unclear. Does it mean that no director should be involved in any decision to override the outcome that would normally apply as a result of a given policy? Or does it mean that no director should be involved in deciding the inputs that go into that policy (for example bonus potential and conditions). Our preference is for the latter as this removes the director more fully from the process. For that reason we recommend that the word *outcome* be dropped.

The Provisions

Provision 11 is confusing. It says that independent, non-executive directors, including the Chair, should constitute the majority of the board. This assumes that the Chair is independent. We see no particular reason to move on from the previous view that the Chair should be independent on appointment but is then neither considered dependent or independent. As a matter of best practice the Provisions should state that Chairs should be independent on appointment. It is better that this is stated in the Provisions than in the Principles because this allows comply-or-explain solutions for companies that have a good reason for not doing this. Principle E alludes to the quality of independence. The Provision would follow naturally from this.

Provision 12 waters down the expectations of the Senior Independent Director in an unhelpful way. It is no longer expected that the SID should be available to shareholders if they have concerns which they have not been able to resolve through normal channels. This expectation should be reinstated in the Provisions, not relegated to the guidance.

Provision 14 states that external appointments should not be taken without prior approval of the board. It is not at all clear what this means. Does it apply only to executive directors? What sort of external appointments are we talking about – for example would board approval be required for a director to become a governor of his or her children's school? Does it also apply to non-executive directors? Does that mean every other board appointment requires board approval? It is also not clear which Principle supports this Provision.

Provision 25 deals with the main responsibilities of audit committees. These do not include the responsibility of the committee to oversee and satisfy itself that it is comfortable with the accounting policies used by the company. This should, however, form part of the audit committee's mandate. It appears that board scrutiny of accounting policies might have been relevant in the case of Carillion and Tesco which is thought to have been using an aggressive approach policies with regard to their policies on revenue recognition. This provision also talks about the internal audit function. Reference should be made to the role of internal audit in monitoring indicators of corporate culture.

Provision 32 says that chairs of a remuneration committee must have sat on *a* remuneration committee for at least 12 months before being appointed. The purpose of gaining the experience is to enable the prospective chair to understand the business and how remuneration should relate to the strategy of the company concerned. For this the candidate must have sat on *the* remuneration committee of the company concerned for 12 months.

The Stewardship Code

The proposed revision of the Stewardship Code is taking place at a time of considerable change in attitude towards the role of investment, exemplified by the UK government's recent report on Growing a Culture of Social Impact Investing in the UK[2], which tends towards growing acceptance that institutional investors have a public policy role.

It is thus very important that the Stewardship Code strikes the right note and the revision should rely on our understanding of fiduciary duties for its basis. This is best set out in the Law Commission Report on fiduciary duties[3] published in 2014. Stewardship is not about taking on public duties. It is about acting in the best interests of beneficiaries. Where equity investment is concerned, this requires investors to nurture the health of companies in which they invest their beneficiaries' money. That will often entail consideration of long term value issues generally encompassed in the term ESG, but it should not involve a separate and possibly conflicting obligation to deliver on a social agenda.

In revising the Stewardship Code, the FRC should be clear about its purpose and its limitations. Too broad a purpose will end up sowing confusion, especially if it pushes institutions too far into political territory. The result would not be improved long term outcomes for both investors and companies, which was the original objective.

Our specific answers on Stewardship are set out below. However, we would make two general points here.

The first is that the concept of stewardship needs to be applied to all asset classes. This is all the more relevant now there is discussion about the application of governance standards to unlisted companies in which institutions often invest through the private equity market.

The second is that the problems around the reliability and trust in the proxy advisers remain unresolved. Indeed they have become even more acute with the "name-and-shame" list now being drawn up by the Investment Association. A refreshment of the Stewardship Code should be accompanied by a fresh effort to address the issue of proxy advisers. This is best addressed at the international level.

[2] Department of Business, Energy and Industrial Strategy, October 2017
[3] Fiduciary Duties of Investment Intermediaries, Law Commission, July 2014

Specific answers

Question 1. Do you have about concerns in relation to the proposed Code application date?

No

Question 2. Do you have any comments on the revised guidance?

The section on Decision Making may need adaptation in line with the proposed disclosure requirement relating to Section 172 of the Companies Act 2006. Boards must have a clear view of how they take the issues raised in Section 172 into account.

The fourth bullet point in the Questions for Boards box on page 3 is unclear. To what does the word its apply?

The first bullet point in the box of Questions for Boards on page 8 talks about public commitment to values. It should encourage a personal commitment from those at the top. The same box should contain a question about how directors consider conflicts of interest and how they examine their own behaviours within the boardroom.

The subsequent box on page 8 on Questions for Boards to ask Management should contain a question on how key promotions are decided. Also it should ask how the company meets the expected behavioural standards of customers.

The box of Questions for Boards on page 20 should ask whether the directors are satisfied that they understand the net present value of the executive remuneration packages they are approving.

Question 3. Do you agree that the proposed methods in Provision 3 are sufficient to achieve meaningful engagement?

We believe that it would be logical to reverse the order of Provision 3 and Provision 4. The latter talks about the Board's need to engage with a wide range of stakeholders whereas the former homes in specifically on the workforce. Provision 4 could also usefully be revised to call on boards to identify material stakeholders, being those who have a large impact on the company or on whom the company has a large impact. The board should then describe, not how it has engaged with these stakeholders but how the company has engaged with them. The primary relationship should be with the executive, although the board has to undertake sufficient engagement to understand the views of these stakeholders and ensure that the executive's relationship with them is appropriate.

With regard to Provision 3, we do not believe that these three options are the only ones available or that any of them will be optimal in every, or even in most circumstances. A single director may lack clout; a director appointed by the workforce may not be able to represent a diverse international workforce; an advisory panel may be ineffective unless it is properly independent with sufficient resources. One alternative may be a board committee tasked with seeking out the views of the workforce. Some companies have tried worker "AGMs" and regular sessions for directors to meet a wide range of staff. These choices are mentioned in the guidance, and the three options in the Provision belong there too. The provision should simply require boards to state their approach.

Finally, this Provision and Principle D appears to conflate general workforce consultation with Speak Up arrangements which are vitally important. We agree that Speak Up should be a concern for the whole board, even though data may be filtered through the Audit or other Board Committee. However, it should be dealt with separately and prominently in both the Principles and the Provisions.

Question 4.Do you consider that we should include more specific reference to the UN Sustainable development Goals or other NGO Principles, either in the Code or in the Guidance.

No. We are concerned that this introduces a conflicting objective for institutional investors whose primary fiduciary duty must be towards the benefit of their beneficiaries. As the Law Commission found in its enquiry into fiduciary duties, this does not exclude engagement with companies on long term sustainability issues, but the condition is that the criterion should be the generation of

sustainable returns commensurate with the time horizons of the beneficiaries. We are concerned that commentators both inside and outside the investment industry are starting to talk about asset managers having an explicit public policy role. Once this is widely accepted, the beneficiaries are likely to take second priority to the delivery of public policy.

The SDGs may be useful, as a tool for some companies to benchmark their social impact and thus relevant to the process of developing long-term strategy. But delivery of them should not become a prescribed primary objective of either companies or investors.

Question 5. Do you consider that 20 per cent is "significant" [as a vote against] and that an update should be published no later than 6 months after the vote?

Yes. For too long, too many companies have ignored significant shareholder objections and this introduces a useful discipline. The proviso is that renewed efforts should be undertaken to improve the quality of recommendations issued by proxy advisors who wield substantial influence, particularly over overseas investors. One possibility is that where a leading investor in the domestic market feels a leading advisor has issued an erroneous recommendation, it should raise the issue publicly and seek support for overturning the proxy adviser's decision. This issue could be addressed in the revision of the Stewardship Code.

Question 6. Do you agree with the removal of the exemption for companies below the FTSE 350 to have an independent board evaluation every three years?

Yes, on balance. Board evaluations can be very helpful in steering the boards of smaller growing companies in a positive direction. This should not be a compliance exercise but one which helps boards to function better. Besides, there remains an option for smaller companies to explain. For this reason we would also generally support the removal of the other exemptions as proposed in the new code. This question also needs to be seen in the context of the development of governance principles for unlisted companies. If there is to be a threshold, it should apply at a similar level in the unlisted sector.

Question 7 Do you agree that nine years, as applied to non-executive directors and chairs, is an appropriate time period to be considered independent?

Question 8 Do you agree that it is not necessary to provide for a maximum period of tenure?

We believe the revised code is right to say that those who do not meet the criteria for independence should not count as independent. This is tighter than the current approach but it will put onus on companies to provide better explanations in an area where they are currently weak.

Question 7 asks whether the nine-year criterion should be treated differently on the basis that there is a qualitative distinction between this and the other criteria of independence. This raises complex issues. There is no evidence at all from voting records that shareholders routinely reject candidates who have served for longer than nine years, but there is anecdotal evidence that some individuals have been deterred from submitting themselves for re-election as the threshold approaches. Companies and some shareholders argue that boards need the flexibility to retain good people and sometimes to provide for a chair who had previously served on the board to continue in office beyond nine years.

In logic, there is nothing which says that an individual ceases to be independent after serving for nine years. The issue is actually less about independence and more about the need for boards to plan succession and refresh themselves. This speaks for the removing the nine-year criterion from the list of independence factors and treating it separately. A separate provision would be tied to Principle I which focuses on board refreshment. It could read:

"To ensure boards are regularly refreshed, non-executive directors should not normally remain in office for longer than nine years. Where, exceptionally, this is the case, companies should explain the reasons why the director should remain in office, the specific likely contributions he or she will make and other steps being taken by the board to ensure regular refreshment."

On balance we do not consider the introduction of maximum tenure desirable as, however the question of tenure is handled, companies will have to explain when a director has been in office for more than nine years.

Question 9. Do you agree that the overall changes proposed in Section 3 of the revised Code will lead to more action to build diversity in the boardroom, in the executive pipeline and in the company as a whole?

Yes generally, subject to the suggestions made above (in our General Points section of this submission) with regard to Principles J and K. Because the Code is about governance and the role of boards, the pipeline is particularly important.

We note in passing a grammatical error in Provision 17 where the penultimate word *their* should be deleted and replaced with the words *his or her.*

Question 10. Do you agree with extended the Hampton-Alexander recommendations beyond the FTSE 350?

Yes. It is important in this context to ensure that there is conformity with any governance arrangements and disclosure expectations established for unlisted companies. Because diversity expectations apply in both the listed and unlisted sector and because both sectors are responsible for building a diverse pipeline of talent their expectations and the thresholds should be the same.

Question 11. What are your views on encouraging companies to report on levels of ethnicity in executive pipelines?

We believe the costs are *de minimis* and, on that basis, both listed and unlisted companies should be expected to disclose, whilst appreciating that at present it is unlikely all listed companies have ethnicity data.

Question 12. Do you agree with retaining the requirements included in the current Code, even though there is some duplication with the Listing Rules, the Disclosure and Transparency Rules or Companies Act?

Yes.

Question 13. Do you support the removal to the Guidance of the requirement currently retained in C.3.3 of the current Code? If not, please give reasons.

No. it is important that the terms of reference for all committees are publicly available and readily accessible. Removing the requirement to guidance reduces this obligation as companies would no longer have to explain if they did not comply.

Question 14. Do you agree with the wider remit for remuneration committees? What are your views on the most effective way to discharge this new responsibility, and how might this operate in practice?

The main purpose of remuneration committees has been to provide some independent authority over the remuneration of the top executives, particularly those who also sit on boards. Following the financial crisis there was a general move to broaden the remit to ensure that highly paid executives of banks did not have incentives to behave in ways that might cause long term damage.

Principle O widens this remit to cover general remuneration and workforce policies. We consider this is reasonable insofar that the committee is expected to consider whether incentives exist which might do damage, for example through the way in which sales forces are remunerated. This has not just been a banking problem. It existed also in pharmaceuticals. It is also important to ensure that the incentives applying to top executives are not at odds with those applying lower down the company and that executive remuneration takes account of pay and conditions elsewhere in the company.

However, it is important that the committee does not take over the role of the executive in setting pay and conditions for staff. Principle O is rightly quite light touch. Together with the second sentence of Provision 33, this is sufficient.

Question 15. Can you suggest other ways in which the Code could support executive remuneration that drives long-term sustainable performance?

We have argued that there needs to be radical reform of executive remuneration. The revision of the Code is not the place for this debate, but reform remains necessary. However, some improvement could flow from the inclusion in Provision 40 of an expectation that committees should avoid incentive awards that cannot easily be valued and satisfy themselves that they understand the value of what they are handing over at the time of grant.

Separately, in passing, with reference to provision 40 we do not understand what is meant by arrangements that "facilitate effective engagement." These words should be dropped. The reference to engagement in Provision 41 suffices.

Question 16. Do you think the changes proposed will give meaningful impetus to boards in exercising discretion?

Great care needs to be taken with the invitation to committees to exercise discretion on remuneration. Based on past experience, more often than not, the discretion will be exercised upwards rather than downwards so that bonuses will continue to be paid even when the conditions are not met. The first sentence of Provision 37 might usefully be changed to read:

"Where remuneration committees are considering an override because formulaic outcomes are out of line with the expectations embedded in the policy, the performance of the company or the contribution of individual executives, remuneration committees should consult shareholders before making a decision."

Question 17. Should the Stewardship Code be more explicit about the expectations of those investing directly or indirectly and those advising them? Would separate codes or enhanced separate guidance for different categories of the investment chain help drive best practice?

One of the achievements of the Stewardship Code has been to alert asset owners and their representatives to the possibility that they can shape the market to their needs rather than simply accepting products on offer from the asset management industry. As originally conceived the Stewardship Code enabled asset owners to distinguish the offerings of different asset managers and therefore make more informed choices. The logical extension of this is that asset owners should be more explicit about their expectations.

This speaks in favour of separate codes or at least separate sections of the Stewardship Code directed at asset owners and asset managers.

Question 18. Should the Stewardship Code focus on best practice expectations using a more traditional 'comply-or-explain' format? If so are there areas in which this would be appropriate?

The Stewardship Code has been built on disclosure aimed at opening up real choice in the investment market. The "comply-or-explain" element has always been weak because there is no one readily available to judge the explanation. Instead there has been an expectation, partially fulfilled, that market practice would develop in a way that placed greater emphasis on stewardship. Moving to a more prescriptive approach would not change the limitations on the "comply-or-explain" approach, but it could have the disadvantage of tending to limit choice in an area where different participants can legitimately espouse different approaches based on the needs of their beneficiaries. This could become considerably more disquieting if the present tendency to impose a public policy role on institutional investors gathers pace.

The critical point is that all those involved in the investment chain should have a clear understanding of their fiduciary duties. While the implementation of some aspects of fiduciary duty can be delegated, the ultimate fiduciary responsibility cannot. Institutional investors need to form their own views on what fiduciary duty means to them and to have a clear policy for decision-making and delivery. They should make this approach and this policy public. In the case of asset owners, the focus would be on

duty to beneficiaries. In the case of asset managers, the focus would be on duty to clients, including obligations which arise when particular services are outsourced to other providers.

This expectation could be treated as separate from the Stewardship Code itself and become a regulatory requirement for all those issuing investment mandates for beneficiaries in the UK and for all those employed in the delivery of such mandates. It could cover the governance issues raised in Question 25. It should, however, encourage the market to take the Stewardship Code more seriously.

Question 19. Are there alternative ways in which the FRC could highlight best practice reporting other than the tiering exercise as it was undertaken in 2016?

The important issue is what happens in practice, not what is reported. The FRC could institute periodic market surveys to establish trends in market practice as well as regular but quite detailed sample audits of statements to establish whether they give a correct impression of what happens. It is also time to reconsider the need for independent assurance (see Question 26).

Question 20. Are there elements of the revised UK Corporate Governance Code that we should mirror in the Stewardship Code?

Yes. Institutions should show how they monitor long term value creation and corporate culture, referring particularly to the way in which corporate values are embedded, drivers of behaviour and social impact. Conversely we feel the Governance Code should refer to share buybacks (see answer to Question 21 below)

Question 21. How could an investor's role in building a company's long-term success be further encouraged through the Stewardship Code?

Question 22. Would it be appropriate to incorporate 'wider stakeholders' into the areas of suggested focus for monitoring and engagement by investors? Should the Stewardship Code more explicitly refer to ESG factors and broader social impact? If so, how should these be integrated and are there any specific areas of focus that should be addressed?

The Government is committed to introducing regulations requiring boards to report on their obligations under Section 172 of the Companies Act 2006. We do not believe that, as some have suggested, there should be a formal obligation on investors to assess companies under the specific headings set out in Section 172. However, it would seem natural to introduce an expectation into the Stewardship Code that they will engage with boards on their eventual disclosures. One question they will need to ask is how the company engages with outside stakeholders.

The agenda for engagement is one to be determined by the institutions, based on their fiduciary obligations. It should take account of the expectations of outside stakeholders towards the company but not be determined by these stakeholders.

While we recognise the importance of what is frequently termed ESG, we are concerned that these issues are not the only ones on which engagement should take place. The consultation document rightly refers to the issues of capital allocation and strategy. We are concerned that in somec situations, the balance of engagement priorities may have shifted too far in the direction of ESG. We regard management of capital as a fundamental ethical issue because it is about the way in which the board and executive manage the capital on behalf of those who ultimately own it.

ESG issues are thus not the only ethical ones. We do not wish to see other important issues diluted because they are critical to corporate health and therefore to the delivery of fiduciary duty of stewardship. It is important that institutional investors have the skills to address these issues and a unified approach in which governance responsibility is not placed solely in the hands of ESG experts.

For this reason we would welcome a specific reference in the Stewardship Code to share buybacks as mentioned in the consultation document. Investors should disclose their approach which should include an understanding of the capital allocation and valuation aspects of buybacks, not just their impact on remuneration. This expectation should be matched by specific reference to share buybacks

in the UK Governance Code, and the duty of directors to take considered decisions based on objective understanding.

Question 23. How can the Stewardship Code encourage reporting on the way in which stewardship activities have been carried out? Are there ways in which the FRC or others could encourage this reporting, even if the encouragement falls outside the Stewardship Code?

We have no particular comment to make.

Question 24. How could the Stewardship Code take account of some investors' wider view of responsible investment?

The Stewardship Code should be based on general, mainstream expectations of investor behaviour. It should not be tailored to the special views of some investors, however, worthy their approach may appear to be.

Question 25. Are there elements of international stewardship codes that should be included in the Stewardship Code?

We agree that the reference to disclosure around stock lending should be picked up from the ICGN Code. Asset owners should also have a clear policy on stock lending as this will routinely deprive them of voting rights.

The ICGN reference to governance structures in institutions is also important and addressed in our answer to Question 18.

Question 26. What role should independent assurance play in revisions to the Stewardship Code? Are there ways in which independent assurance could be made more useful and effective?

Independent assurance was a very controversial issue at the time the Stewardship Code was introduced, but it is now time to revisit it, especially for institutions claiming top tier status.

Question 27. Would it be appropriate for the Stewardship Code to support disclosure of the approach to directed voting in pooled funds?

We are strongly of the view that voting cannot be separated from engagement. Where a pension fund buys into a pooled fund it will still be relying on the fund manager to engage and will undermine that manager's engagement mandate if the latter is denied responsibility for the voting decision.

The primary onus for pension funds is to be comfortable with the voting and engagement policies of the fund manager. This does not preclude discussion of difficult issues as they arise.

The decision taken in 2013 was therefore correct and remains so.

Question 28: Should board and executive pipeline diversity be included as an explicit expectation of investor engagement?

Yes, insofar as it is covered in the revised Code and is an issue of specific relevance to the company's future.

Question 29. Should the Stewardship Code explicitly request that investors give consideration to company performance and reporting on adapting to climate change?

Only insofar as it enjoins investors to enter dialogue on material non-financial risks, which would include climate change.

Question 30. Should signatories to the Stewardship Code define the purpose of stewardship with respect to the role of their organisation and specific investment or other activities?

Question 31. Should the Stewardship Code require asset managers to disclose a fund's purpose and its specific approach to stewardship, and report against these approaches at a fund level? How might this best be achieved?

We do not believe that asset managers should make individual stewardship disclosures for each of the funds in their stable. Disclosure against the Stewardship Code should be an overarching statement of principles which applies to all funds they offer. Within that framework, they should draw specific attention to any of their funds which do not operate in line with the principles and explain the reason. They could also report in a general manner on their broader approach to stewardship, referring to their values and culture.