

**Grŵp  
Cartrefi  
Cymunedol  
Cymru**



**Community  
Housing  
Cymru  
Group**

**Community Housing Cymru**

**Code of Governance**

**Consultation Paper**

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# Code of Governance

## 1 Introduction

The purpose of this consultation paper is to obtain the views of Housing Associations and key stakeholders on a proposed Code of Governance for the Housing Association sector in Wales.

The aim of this Code is to encourage all associations to strive for the highest standards of governance and to set out the standards and practices that Boards and their members must adhere to in order to ensure good quality governance is the norm in all CHC member organisations.

The Code draws heavily on, and is a development of, the Community Housing Cymru (CHC) Charter for Good Governance and supporting guidance and includes a set of clearly stated principles and provisions. This Code, like the preceding Charter, is informed by the Welsh Government's citizen-centred governance principles. Boards are expected to demonstrate their adherence to all the principles and provisions in the Code and any departures from these must, in turn, be justified to both internal and external audiences as part of a 'comply or explain' approach.

This paper contains:

- The proposed Code of Governance for the sector
- An Appendix with supporting information and
- a set of consultation questions.

Responses to these questions should be sent to [claire-mcdougall@chcymru.org.uk](mailto:claire-mcdougall@chcymru.org.uk) by 31 August 2014.

## 2 Definitions

Governance is the system by which organisations are directed and controlled – particularly how the aims and values of an organisation are set as distinct from the day-to-day operational management of the organisation by its executives.

**Executives** are the paid senior management team in an organisation.

**Non executives** are board members who are not paid employees of the organisation.

**Stakeholders** include: tenants, residents, service users, local communities, local authorities, Partners, employees, lenders, and regulators.

**Parent Board;** a parent board refers to the Board of the organisation in a group structure that has the power to direct the activities of its subsidiaries.

**Managing/Corporate Director.** In this case the Managing Director/Corporate Director refers to is the most senior full-time executive of a subsidiary company in a group structure. The role of managing/corporate director and chief executive are virtually the same.

### **3 Welsh Government Citizen-centred governance principles**

#### **Putting the citizen first**

Putting the citizen at the heart of everything and focussing on their needs and experiences; making the organisation's purpose the delivery of a high quality service.

#### **Knowing who does what and why**

Making sure that everyone involved in the delivery chain understands each others' roles and responsibilities and how together they can deliver the best possible outcomes.

#### **Engaging with others**

Working in constructive partnerships to deliver the best outcome for the citizen.

#### **Living Public Service Values**

Being a value-driven organisation, rooted in Nolan principles and high standards of public life and behaviour, including openness, customer service standards, diversity and engaged leadership.

#### **Fostering Innovative Delivery**

Being creative and innovative in the delivery of public services - working from evidence, and taking managed risks to achieve better outcomes.

#### **Being a Learning Organisation**

Always learning and always improving service delivery. .

#### **Achieving Value for Money**

Looking after taxpayers' resources properly, and using them carefully to deliver high quality, efficient services.

## **4 Key Principles and Provisions**

### **A The board's role and responsibilities**

#### **Main principles**

- A1 Boards must ensure that their organisations operate with a sound understanding of the needs, aspirations and experiences of the citizens they serve.
- A2 Boards must ensure that the roles, duties and responsibilities of each element of the governance structure, including their own, are clearly stated and understood.
- A3 All members of the board have equal responsibility for decisions that affect the success of the organisation. Each has a duty to act only in the best interests of the organisation and not on behalf of any constituency or interest group, including personal interests.
- A4 The board of a parent organisation in a group structure must make sure it has the power to direct the activities of its subsidiaries.
- A5 Boards must assume ultimate responsibility for ensuring the organisation develops positive and constructive relationships with its key stakeholders, including funders, partners and the regulator.
- A6 Boards must establish organisational values and ensure that these underpin the policies and operation of the organisation.
- A7 Boards must demonstrate leadership ensuring their organisation embraces continuous improvement.
- A8 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 external auditors.

#### **Detailed provisions:**

- A1.1 Boards must have a clear picture of who the citizens they serve are and their needs and aspirations.
- A1.2 Boards must ensure key messages and feedback from the citizens they serve are regularly fed into discussions at Board level particularly about what citizens want and what they think about the organisation's services.

- A2.1 The board must ensure there is a board member role profile or job description in place. A formal agreement setting out board members' obligations must be in place and be signed by board members to indicate acceptance. There must also be a role description for the Chair.
- A2.2 Boards must make adequate provision for training of their members and others in order to ensure clarity about who does what within each organisation and why.
- A2.3 Essential functions of the board must be set out in the organisation's constitutional documents (rules), terms of reference, standing orders and/or financial regulations. These functions must be to hold ultimate responsibility for the governance of the organisation and ultimate control over all aspects of the organisation's work to ensure that its financial, legal and service obligations are properly fulfilled. Further information is available in the Appendices
- A2.4 Boards must delegate operational management to the organisation's staff.
- A2.5 Committees must have specific delegated responsibilities, be consultative and/or be area based.
- A2.6 Committees must:
- have clear terms of reference approved by the board
  - have agreed reporting mechanisms to the board
  - be clear about their delegated authority and procedures for reporting on the exercise of this authority
  - have **agreed, effective** procedures for meetings
  - have their purpose, terms of reference and delegated authority regularly reviewed
- A2.7 Paid staff of an organisation must not chair the Board nominations, audit and remuneration committees, or form a majority of the membership of these committees.
- A4.1 A parent board must:
- control the activities of all parts of the group and satisfy itself that all group members are meeting statutory and regulatory requirements and that their affairs are being conducted in accordance with generally accepted standards of performance, probity, financial prudence and good practice;
  - ensure that both parent and subsidiary organisations have a clear understanding of each other's vision, values and objectives;

- ensure there is a fair balance between the need to represent the interests of subsidiaries with the need for independence and scrutiny on group boards; and
- make sure the powers, roles and relationships of each board are clearly specified in an appropriate document such as an intra-group agreement, and be well understood by all.

A5.1 The organisation must be appropriately engaged in partnership structures and partnership working. The partnership working in which the organisation is engaged must have clear aims and responsibilities, be focused on providing better services, and have mechanisms in place to evaluate the outcomes of partnership working

A6.1. Boards must periodically review the values of the organisation, how the values are reflected by the work of the board (in its decision making, board behaviour etc.) and whether working practices within the organisation reflect the values. Such reviews might usefully be assisted by external governance specialists

A7.1 Boards must ensure adequate arrangements are in place to secure continuous improvement and that they receive comprehensive and appropriate information about the performance of the organisation so that they can assess whether continuous improvement is being achieved and contribute to discussions on areas of the business which are not improving. Boards must receive up-to-date, clearly presented and accurate information to enable them to make decisions.

A7.2 The Board must seek assurance that the process of self-assessment is understood at all levels of the business.

A7.3 Boards must ensure self-assessment is thorough and fit for purpose. This must include:

- constructive challenge from the board
- evidence gathered being used to inform operational and strategic planning

A8.1 Boards must ensure there is effective risk management in place and an agreed means of reporting risks to the board.

A8.2 Board must ensure that services to tenants are subject to continuous review and improvement.



## **B Board composition, recruitment, renewal and review**

### **Main principles**

- B1 The Board must be of a size that can operate effectively, and have a diverse range of skills and knowledge represented linked to those identified as needed by the business and the experiences required.
- B2 Boards must ensure appropriate board renewal and succession planning arrangements are in place focussing on renewal of skills and experience. Recruitment must be open and transparent, and where possible be based on merit and objective selection and assessment techniques.

### **Detailed provisions:**

- B1.1 If executive staff are to be full Board members, the board must ensure that the organisation's standing orders specify where, when and how they are to be excluded from decision-making. Non-executive Board members must be in the majority at board meetings.
- B1.2 Boards must have at least five members and no more than fifteen including co-optees. It is up to each organisation or group parent organisation to decide on the best board composition.
- B2.1 Boards must identify the skills and experience needed around the board table in order to fulfil its business objectives and achieve its future strategy.
- B2.2 Boards must have in place clear procedures for the removal of board members, e.g. in instances where conflicts arise that cannot be resolved.
- B2.3 Boards must ensure the following are in place:
- new board members are recruited, selected or elected on a systematic basis, according to merit and objective selection and assessment techniques
  - a maximum term of office is set for the chair and board members and published, where practical, and for the best interests of the organisation, must comply with best practice.

- while the contribution of experienced board members is vital, boards also need new members who can provide an independent challenge to long-standing practices and thinking. Therefore to support board renewal, maximum terms of office must be two to three terms, with an overall maximum period of board service for non-executive board members of no more than nine years
- a preferred composition of the board is published
- the circumstances in which individuals would be excluded from becoming or continuing to be a board member are published
- where the organisation's constitution provides for one or more board members to be nominated or directly elected, the organisation must do all that it reasonably can to ensure that those coming forward bring skills and experience that are relevant to the needs of the board.
- If the organisation is paying board members, it must ensure that it has a mechanism for establishing payment levels that are independent of the board, possibly through a remuneration committee, and independent adviser or by using published guidance and industry norms.
  
- Agreed payment levels must be proportionate to the organisation's size, complexity and resources.
- If the organisation is paying board members, payment must be linked to the carrying out of specified duties against which performance will be reviewed.
- Any payment for non-executives must be fully disclosed on a named basis.

## **C The role of the chair and chief executive/leadership**

### **Main principles**

- C1 Each board must be headed by a properly appointed and skilled chair who is aware of his or her duties as head of the board and the clear division of responsibilities between the board and the executive.
- C2 A clear understanding of the working arrangements between the board and the chief executive must be in place, clarifying the distinction in their respective roles.

### **Detailed provisions:**

- C1.1 The chair has particular duties and responsibilities. These must be formally recorded. The responsibilities of the Chair are outlined in the Appendices.
- C1.2 The roles of chair (and vice chair, if there is one) of the board and main committees must not be held by an executive.
- C2.1 The chief executive must be clear about the essential duties of the role, legal responsibilities, delegation of authority and relationship with the board. Like all other employees, the chief executive must have a written and signed contract of employment.
- C2.2 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 a remuneration package for the chief executive. The committee must not include any executive members of the board.
- C2.3 The chief executive's remuneration must be disclosed in the annual financial statements.

## **D Working effectively**

### **Main principles**

- D1 Board business must be conducted in an open and transparent manner, making clear decisions based on accurate information. The board must be supplied in a timely manner with information in a form and quality appropriate to enable it to discharge its duties.
- D2 Boards must be kept up to date with developments in the regulatory and business environment and receive appropriate feedback on performance through adequate self-assessment procedures.
- D3 Board members must receive the necessary induction, training and on-going support they need in order to effectively carry out the responsibilities of being a board member.
- D4 Boards must undertake a formal and rigorous annual appraisal of its members (including the chair) and/or of the board as a whole.
- D5 Board members must commit to undertaking regular training
- D6 Boards must provide leadership and direction to ensure that value for money is considered throughout an organisation's approach to managing resources and risk.
- D7 Where standing or other committees oversee specified areas of work, in the case of any dispute, the decision of the board must over-ride any committee.

### **Detailed provisions:**

- D1.1 Board decisions must be, wherever possible, based on full agendas and documents that are circulated to board members well in advance of meetings at an interval to be agreed by the board and executive . Papers must identify points for decision, and the decisions must be recorded in minutes.
- D1.2 Boards must have in place arrangements for making urgent decisions between board meetings, set out in the standing orders of the organisation
- D3.1 All board members must receive:
  - induction training when they become a board member to ensure that they are aware of their responsibilities and the practical support available to enable them to effectively undertake their role

- ongoing support to develop their skills, experience and knowledge based on an analysis of their training and development needs
- ongoing provision of information so that board members can keep up to date with the operating environment of the organisation and with developments within the organisation itself

D4.1 The board must carry out an annual appraisal of its own performance and/or an annual appraisal of individual board members including the chair and, if appropriate, the vice chair and any executive who sits on the board. For more information on Board appraisal see Appendices.

D5.1 The Board must ensure a clear and explicit board development plan or training programme (and individual board member development plans as appropriate) is developed, monitored and updated on a regular basis.

D6.1 Systems of continuous improvement and financial, people and project management must be robust, effective and consider value for money

D6.2 Boards must make sure appropriate procurement arrangements are in place to deliver cost-effectiveness and efficiency

## **E Being open and accountable**

### **Main principles**

- E1 Boards must demonstrate accountability to the citizens they serve.
- E2 Boards must ensure that they and their organisation operate in an open and transparent way in relation to all stakeholders. Board must demonstrate accountability to shareholders and other key stakeholders.
- E3 Boards must ensure the regulator is notified of significant events
- E4 The organisation's external and internal auditors must be independent and effective.
- E5 Boards must ensure the organisation's approach to audit goes beyond traditional financial audit and will cover all aspects of the organisation's work

### **Detailed provisions:**

- E1.1 Boards must publish an annual report of the organisation's activities and performance.
- E1.2 Boards must ensure that its communications with the citizens they serve and shareholding members/members (as appropriate) are made in an appropriate and accessible way, offering opportunities for citizens to shape services and review performance
- E2.1 Boards must ensure that the role of shareholding members/members is clearly defined and has a clear purpose.
- E2.2 Boards must ensure policies regarding admission to membership and selection of members are appropriate to the role defined for shareholding members/members and are subject to regular review.
- E2.3 Effective communication, reporting and feedback mechanisms must be in place with the relevant range of stakeholders in the areas in which the organisation operates.

- E2.4 Boards must make sure their organisation has a policy about access to information and documentation which covers when information will not be made available. Information must generally be made available unless there are good reasons of confidentiality or practicality. This policy must be regularly reviewed.
- E2.5 Boards must ensure performance information is published, easily accessible and outside requests for information are complied with wherever practicable and appropriate .
- E3.1 The Board must, as far as practicable, ensure the relationship with the regulator is open, transparent and based on trust and honesty and co-regulation is a central feature.
- E3.2 Boards must comply with current legislation.
- E4.1 Regarding external audit, boards must:
- be aware that external auditors will not normally be judged to be independent if they also provide significant non-audit services to the organisation.
  - make sure proper and transparent procedures for the selection and periodic review of the appointment of external auditors are in place
- E4.2 Regarding internal audit, boards must:
- make sure effective internal controls are demonstrated and arrangements for the internal audit function are effective
  - ensure audit arrangements and procedures are reviewed regularly
  - perform a regular appraisal of the effectiveness of the audit committee and the outcome be reported to the board
- E4.3 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 endorsement.
- E4.4 The audit committee, or equivalent, must ensure that the board receives adequate financial and business management reports, in order to scrutinise performance of the organisation.
- E4.5 Large and medium-sized organisations (must have a separate audit committee in place, or must ensure that the finance committee can discharge the functions of an audit committee adequately; other organisations must

make effective arrangements for discharging the functions of an audit committee.

E4.6 Audit committees, if in place, will have a role that includes:

- linking consideration of risk with areas identified for internal audit scrutiny
- playing a role in ensuring that the board receives adequate and timely financial and business management reports in order to effectively scrutinise the performance of the organisation
- ensuring the board receives information about the degree of assurance provided by internal controls
- maintaining an appropriate relationship with the external auditors, ensuring their independence and monitoring their performance.

E4.7 The chair of the audit committee must not be the chair of the board or an executive member of the board.

E4.8 The audit committee must be able to meet with the internal and external auditors without paid staff being present at least once a year.



## **F Behaving with integrity**

### **Main principles**

- F1 Organisations must maintain the highest standards of probity and conduct.
- F2 Board must demonstrate leadership and commitment to equality and diversity as outlined in the Equality Act 2010 through all the functions of their organisations.

### **Detailed provisions:**

- F1.1 Board must consider any potential conflicts of interest and adopt appropriate policies. Boards must ensure they are recording conflicts of interest and in these instances, ensuring that the individual(s) concerned are not involved in the discussion or decision. This could involve physical exclusion or non-participation
- F1.2 Boards must ensure the company secretary has a direct line of communication with the chair.
- F1.3 Boards must have a code of conduct for board members and staff which supports high standards of probity and ethics and make this available for public inspection.
- F1.4 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 ensure that major decision making resulting in benefits to individuals or companies is based on objective factors and is not unduly influenced by personal relationships.
- F1.5 Reviews must be conducted regularly of:
- compliance with this Code of Governance
  - the codes of conduct adopted by the organisation for its board members and staff
  - policies and procedure relating to accepting and recording of hospitality, and gifts, and wider benefits
  - whistle-blowing, access to information and other matters of business ethics

Such reviews might usefully be assisted by external governance specialists

- F1.6. Boards must consider any potential conflicts of interest and adopt policies limiting the number of board members who are paid staff or board members of other housing providers.

- F1.7 Boards must ensure the organisation maintains comprehensive records of the declared interests of board members and staff
- F1.8 Boards must adopt a policy on the receipt of hospitality and gifts by board members and staff, to ensure that no gifts of a significant monetary value are offered or given and that all gifts and hospitality are formally recorded
- F1.9 Boards must ensure that proper arrangements are in place for the referral and determination of cases raising issues of ethics or probity. This will include a whistle-blowing policy
- F1.10 Boards must ensure that any concerns raised by board members as to how the organisation is run and reasons for board member resignations are recorded in the minutes of the relevant board meeting
- F1.2 The board must provide leadership and clear strategies regarding the promotion of equality and diversity, including how the organisation will promote and demonstrate equality in relation to all equality strands and the Welsh language, covering all areas of work of the organisation and the membership of the board or committees.
- F1.3 Boards must ensure their organisations record and publicise their achievements and performance in relation to equality and diversity.

## 5 Appendix

### *Essential Functions of the Board*

This will include:

- (i) defining and ensuring compliance with the organisation's values and strategic objectives;
- (ii) establishing a framework for approving strategies, policies and plans to achieve those objectives;
- (iii) identifying appropriate resources to put strategy and policy into practice, satisfying itself as to the integrity of financial information and approving annual budgets and accounts and business plans;
- (iv) ensuring effective systems for evaluating the work of the organisation, internal control, risk management and communication and engagement with service users and stakeholders, (including in relation to setting strategic direction), are in place;
- (v) establishing and monitoring a framework for delegation and systems of internal control which are reviewed annually;
- (vi) taking decisions and agreeing policies on all matters that might create a significant financial or other risk to the organisation or that raise significant issues of principle
- (vii) establishing mechanisms for communication and receiving feedback from the organisation's stakeholders and shareholders
- (viii) monitoring the organisation's performance and taking timely corrective action if required
- (ix) having a role in promoting the success of the organisation;
- (x) taking overall responsibility for self-assessment;
- (xi) appointing, managing and dismissing the chief executive. In group structures as relevant, appointing and dismissing other Corporate or Managing Directors;
- (xii) satisfying itself that the organisation's affairs are conducted lawfully and with probity;
- (xiii) following the organisation's constitution in appointing and removing the chair of the board;
- (xiv) establishing a code of conduct for the board;
- (xv) assuring the effectiveness of governance on a regular basis;

### *Role of the Chair*

must include:

- (i) ensuring the efficient conduct of board business and of the organisation's general meetings

- (ii) ensuring that appropriate standards of behaviour are maintained and that all board members are given the opportunity to express their views
- (iii) ensuring that the organisation provides appropriate induction, training, development opportunities and support for all board members
- (iv) establishing a constructive relationship with, and providing support for, the chief executive and ensuring the board as a whole works constructively with senior staff
- (v) in conjunction with other board members, ensuring an appropriate system of appraisal for the chief executive and arrangements to determine the remuneration of the chief executive and other senior staff, is in place
- (vi) ensuring that the board delegates sufficient responsibility throughout the organisation to enable the business to be carried on effectively between meetings of the board and ensuring that the board monitors the use of these delegated powers
- (vii) ensuring that the board seeks and receives professional and independent advice when needed
- (viii) representing the organisation as appropriate
- (ix) taking decisions delegated to the chair
- (x) taking the lead on board effectiveness reviews and board member appraisal where implemented
- (xi) ensuring the board agrees the role and responsibilities of any vice-chair

#### Chief Executive Appraisal

The following principles must be applied to executive remuneration and appraisal:

- (i) a remuneration package is sufficient to attract, retain and motivate the quality of chief executive required, but not be so generous as to bring the sector into disrepute
- (ii) there is full disclosure of all elements of the remuneration package, including salary, pension arrangements, periods of notice and compensation payable for loss of office
- (iii) remuneration decisions are clearly related to performance achievement, including over the long-term
- (iv) any performance-related elements of the remuneration package are linked to the achievement of specific and measurable targets reviewed on a regular basis, taking into consideration the need to balance long-term sustainable progress with annual achievements
- (v) a robust system of appraisal is in place which is based on a full picture of performance

- (vi) the chief executive's contract includes procedures for monitoring performance and how complaints and disciplinary matters will be dealt with

## Board Appraisals

Reviews might take into account:

- (i) how well the board performs its role
- (ii) the effectiveness of board relationships and how it operates as a team
- (iii) the effectiveness of the governance structure
- (iv) how the board is viewed by key stakeholders, e.g. regulators, funders, local authorities, tenant groups, staff etc
- (v) the composition of the board and the skills, competencies and contribution of its individual members
- (vi) whether the board provides enough support, scrutiny and challenge to the senior management team

and may be externally or internally led.

## **6 Consultation Questions**

We are particularly interested in your views on:

- 1 The content of the Code and what if any amendments you feel are required?
- 2 The format and structure of the Code?
- 3 How you think it could be improved?
- 4 Is there anything missing that you think should be included?
- 5 What support you would like from CHC to help you meet expectations of the Code?

**Consultation responses should be returned to [claire-mcdougall@chcymru.org.uk](mailto:claire-mcdougall@chcymru.org.uk) by 31 August 2014.**