

Institute of Directors Consultation on the proposed Code of Conduct for Directors Acas response

9 September 2024

This is the Acas Executive response to the [Institute of Directors' \(IoD\) consultation on the proposed Code of Conduct for Directors](#).

Introduction

Acas (the Advisory, Conciliation and Arbitration Service) welcomes the opportunity to respond to the Institute of Directors' (IoD) consultation on your proposed Code of Conduct for Directors.

Acas is an independent and impartial non-departmental public body with a statutory duty to promote the improvement of industrial relations in Great Britain. In carrying out this duty, Acas offers conciliation in both individual and collective disputes; good practice advisory services for employers, and a website and national helpline which assists millions of employers and employees each year.

Our work gives us unique insight into what is and is not conducive to good industrial relations and, in turn, what has potential to drive productivity, value and growth. It also makes Acas the evidential authority on the risks generated by poor workplace relations.

Together with CIPD and the Royal Society of Arts (RSA) we have for the last year been marshalling the evidence on social sustainability, which we will publish in a discussion paper in Autumn 2024 to better define the social element of social sustainability. From our work, we believe there is a lack of clarity and understanding amongst stakeholders and assessors of the full scope of social responsibility and the contributing factors. Our work aims to provide further clarity on material social factors to better inform those reporting, those assessing and those making decisions based on sustainability reporting.

Summary

We welcome the opportunity to comment on the Institute of Directors' Code of Conduct for Directors as part of the consultation exercise. There is value in a practical tool and behavioural framework to help leaders and their organisations, to build and maintain trust with internal and external stakeholders about their activities. The Nolan Principles of public life are a proven reference and starting point of credibility for the Institute of Directors' Code of Conduct for Directors Principles.

We specifically welcome the Institute of Directors' focus not only on the widely recognised factors of good business leadership but for drawing attention to the importance of social factors including 'responsible business' and 'fairness' as key principles. It is good to see the content of the principles and undertakings encouraging a focus on long-term business success factors, not just short-term. In particular, we strongly support the focus on behaviours including, promoting and role modelling fairness, challenging poor behaviour, open communications and embracing social sustainability factors within and outside an organisation.

We acknowledge and support the need to increase directors' focus and capability in positively leading on social sustainability, high ethical standards and associated social and environmental impacts.

Our insight suggests that value can be increased, and risk reduced by focusing on the quality of leadership behaviours and improving social sustainability across an organisation's employees, supply chain, customers and wider communities over the long and short term.

As duties and expectations of directors increase nationally and internationally, directors need to be suitably knowledgeable and equipped to fulfil their legal, moral and social obligations in tandem with, and integral to, running their business.

Decisions and actions on material social factors form part of the narrative expected from directors and in their material non-financial reporting. When the organisation's social narrative is shared externally it has the potential to support financial return – to business, investors and wider society.

Progress on developing and communicating a social sustainability strategy is currently impeded by directors' incomplete understanding of all material aspects of their sustainable performance, especially in terms of the social factors. We would encourage the Institute of Directors to consider ways to address that deficit to support implementation of the Code.

Comments on the specific consultation questions:

1. Are there any additional issues that should be addressed in the Code?

a) Three key aspects of social sustainability are missing and could be captured under principle 5, which should concern not just external stakeholders but also acting responsibly with employees and across the supply chain:

- labour relations – director's responsibilities to ensure healthy relations between employers and employees
- human rights – director's duties to ensure basic rights are respected in a way that promotes dignity and respect
- health, safety and wellbeing – the directors role to set and maintain a work environment where people can be safe and maintain or improve their health and wellness when interacting with the company and its products and services

b) One more specific aspect that would benefit from dialling up is the need for directors to act on a finding or omission of themselves or someone else. It is covered in some principles but is less well covered in principle 3 'transparency' and principle 5 'fairness'.

Principle 3:

"Encourage the adoption of 'speak up' mechanisms which enable employees and other relevant stakeholders to report concerns about any misconduct or actions that are not aligned to the organisation's values."

This point could give the impression of moving the problem back to the individual, rather than for directors to act towards achieving a resolution if employees report concerns.

Principle 5:

Two bullet points start with the word "promote". The action element could be strengthened for example if the third bullet point was revised to read "Take into account equality of opportunity in all business activities".

Public sector directors and those in the private sector delivering public duties are of course bound by the public sector equality duty (PSED) which requires them to:

"have due regard to the need to achieve the objectives set out under s149 of the Equality Act 2010 to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it"

It may help directors to cross-refer to this duty.

c) Under principle 1 the third bullet point would benefit from rewording. It currently reads "Avoid behaviour which might adversely affect...". Consider replacing the word "avoid" in this situation for example with "Do not demonstrate". The word "avoid" could be interpreted to mean "move yourself away from" rather than "don't do it and deter others".

The Code would benefit further if there were clearer calls to action to correct, as well as deter, wrongdoings to people and business, in each of the principles.

2. How can awareness of the Code be encouraged amongst Directors and the wider public?

Our view would be to work with partners – free sharing of the code and speaker engagements with other trade or professional bodies and sector specific trade bodies to increase awareness and potential for them to promote it.

3. Should Directors make a public declaration or disclosure of their adoption of the Code?

If the code is accepted and referred to by other authoritative bodies and becomes widely known, then conformance with the Code could be just one part of how a company chooses to show a responsible approach to running and reporting on their business. The decision should be left to each organisation depending on what other mechanisms they have to report their material impacts.

4. Is there a role for government, regulators or professional bodies in encouraging adoption of the Code?

They may point to the Code's principles as one example of good practice for a company to consider, but regulators would still need to see evidence of implementation by a company beyond the statement. See our response to question 2 above.

5. If you are currently serving as a director, would you be willing to commit yourself to the principles and undertakings of this Code?

Acas is bound by its own regulations as an independent public sector body and so we have not commented on this question.

Our main message about the Code of Conduct

In summary our main message for this Institute of Directors' Code of Conduct for Directors consultation is an ask to:

Clarify and amplify the call to action for directors to know, embrace and positively act on the material social sustainability impacts of their business for the benefit of their business, investors, internal workforce, supply chain and impacted society. To recognise that social sustainability is a fundamental element of forward-looking leadership and the resultant performance of business.