



Governance *in brief*

The stakeholder voice in board decision making – new guidance from ICSA and the Investment Association

Headlines

- The new guidance has been issued to help company boards meet their existing duty under section 172 of the Companies Act 2006 to take into account the interests of their key stakeholders when making strategic decisions.
- The guidance will also help boards address the forthcoming legislation to explain publicly how they have complied with the section 172 duty to have regard to employee and other interests.
- The guidance sets out the elements involved in understanding and assessing the impact on key stakeholders, including: stakeholder identification, composition of the board, induction and training of directors, the board agenda, the mechanics of engagement, and reporting and feedback.

Last month the Government issued its package of corporate governance reforms. Included within those reforms were measures to strengthen boardroom engagement with a broader group of stakeholders. The Government has committed to issuing secondary legislation that will require companies to explain how their directors have regard to employee and other stakeholder interests.

To help boards meet this new requirement, it was announced that the ICSA and the Investment Association would be issuing guidance on practical ways in which companies can engage with their employees and other stakeholders at board level. In its recent detailed response to the BEIS Select Committee inquiry report, the Government acknowledged that the involvement of the Investment Association in the development of the guidance underlined the significance many institutional investors now attach to seeing the companies they are invested in engaging effectively with stakeholders as an important component in running a sustainable business.

The aim of the guidance is to help company boards think about how to ensure they understand and weigh up the interests of their key stakeholders when taking strategic decisions. It reminds directors of their statutory duties under sections 171-181 of the Companies Act 2006, then provides a set of core principles and considerations for each of the different elements involved in understanding and assessing the impact on key stakeholders, summarised as follows:

	Principles	Some considerations
Stakeholder identification	<p><i>Boards should identify, and keep under regular review, who they consider their key stakeholders to be and why.</i></p> <p><i>Boards should determine which stakeholders they need to engage with directly, as opposed to relying solely on information from management.</i></p>	<p>Stakeholders will vary from company to company.</p> <p>A stakeholder mapping exercise can help to prioritise the most material impacts on a range of stakeholders.</p> <p>The board will need to consider the types of individuals or groups that they will use as points of contact for a particular stakeholder group.</p> <p>This needs to be a dynamic process to reflect changes in strategy, business requirements or legislation – the stakeholder map and engagement plans should be reviewed regularly.</p>
Board composition	<p><i>When evaluating their composition and effectiveness, boards should identify what stakeholder expertise is needed in the boardroom and decide whether they have, or would benefit from, directors with directly relevant experience or understanding.</i></p> <p><i>When recruiting any director, the nomination committee should take the stakeholder perspective into account when deciding on the recruitment process and the selection criteria.</i></p>	<p>There are two broad approaches put forward:</p> <ul style="list-style-type: none"> • reserving one or more board positions for directors drawn from a stakeholder group; and • appointing non-executive directors with relevant experience or understanding of one or more stakeholder groups. <p>The board should consider whether the company's normal recruitment processes are appropriate, or whether a different approach or additional actions are needed to identify candidates with the necessary skills and experience.</p> <p>If appointing stakeholder representatives to the board, a number of issues need to be considered, e.g. how many should there be, how should they be appointed, what initial and ongoing support will they require and how will they communicate with their colleagues?</p>
Induction and training	<p><i>The chairman – supported by the company secretary – should keep under review the adequacy of the training received by all directors on stakeholder-related matters, and the induction received by new directors, particularly those without previous board experience.</i></p>	<p>Directors should, on appointment, devote time to a comprehensive, formal and tailored induction which should extend beyond the boardroom.</p> <p>Activities involving meetings with key stakeholder groups and site visits should be included in the induction process.</p> <p>Bespoke training may be required on some occasions to fill gaps in knowledge around particular stakeholder issues.</p>

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Board discussion	<p><i>The chairman – supported by the board, management and the company secretary – should determine how best to ensure that the board's decision-making processes give sufficient consideration to key stakeholders.</i></p>	<p>Strategy and policy papers could incorporate prompts such as 'impact on stakeholders'.</p> <p>Standing agenda items to consider feedback from board committees and/or individual directors with designated responsibilities in relation to key stakeholders.</p> <p>A rolling programme of meetings with key stakeholders, either in regular board meetings or as part of a programme of off-site meetings.</p> <p>The board needs to consider the source, frequency and format of the information it is receiving in relation to stakeholders.</p> <p>New board committees could be established and/or existing committees could have their remit extended to deal specifically with stakeholder matters.</p> <p>Where the board decides that a director (executive or non-executive) should take on the responsibility for understanding the views of key stakeholders, the board will need to consider what support the designated director(s) will require, how they will engage with the relevant stakeholders, mechanisms for reporting to the board and the stakeholder group, length of tenure, impact on time commitment and how to ensure that shareholders have visibility of the way in which the director has fulfilled this role in order to inform voting on re-election.</p>
Engagement mechanisms	<p><i>Boards should ensure that appropriate engagement with key stakeholders is taking place and that this is kept under regular review.</i></p> <p><i>In designing engagement mechanisms, companies should consider what would be most effective and convenient for the stakeholders, not just the company.</i></p>	<p>The board needs to be satisfied that there are appropriate lines of reporting from stakeholder engagement activities up to senior management and ultimately to the board.</p> <p>The board should determine the extent to which it needs to be directly involved in engagement with particular stakeholders or on particular issues.</p> <p>Forums and advisory panels are unlikely to be seen as effective by stakeholders unless those stakeholders are confident that their views will be heard by the board. It is therefore important to ensure that appropriate feedback mechanisms are in place.</p> <p>Alternative mechanisms include stakeholder surveys and social media.</p>

	Principles	Some considerations
Reporting and feedback	<p><i>The board should report to its shareholders on how it has taken the impact on key stakeholders into account when making decisions.</i></p> <p><i>The board should provide feedback to those stakeholders with whom it has engaged, which should be tailored to the different stakeholder groups.</i></p>	<p>Reporting on how the board has considered the impact of their actions on stakeholders is key to establishing trust and demonstrating transparency and accountability.</p> <p>Stakeholder engagement must be a two-way process – companies should establish effective and targeted feedback loops to show stakeholders how their views inform board decisions.</p> <p>Reporting to shareholders should focus on answering the following three questions:</p> <ol style="list-style-type: none"> 1. Who are the key stakeholders? 2. How does the board hear from these key stakeholders? 3. What were the outcomes of the company's engagements with its key stakeholders, and what impact did that have on the board's decisions? <p>Reporting mechanisms will not always be equally suitable for different groups of stakeholders, so companies should consider how best to report to each group. The focus should be on arrangements which are effective and convenient for the stakeholders as well as for the company. Examples include newsletters, shareholder updates, social media and other online resources clearly signposted from the company website.</p>

Helpfully the guidance includes a number of examples of mechanisms for stakeholder engagement already being used in the largest UK companies.

For further information:

www.icsa.org.uk/stakeholdervoices

<https://www.theinvestmentassociation.org/assets/files/press/2017/2017-09TheStakeholderVoiceinBoardDecisionMaking.pdf>

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Deloitte View

- We believe that this is useful guidance for boards to consider, but there is much to think through, particularly around agreeing which groups represent key stakeholders, which are deemed 'not key', and reporting on stakeholder engagement.
- An important decision will be deciding whether the task of considering stakeholder groups should be allocated to executive or non-executive directors.
- There are implications for the recruitment of non-executive directors with experience in this area of stakeholder engagement.
- Reporting the outcomes and impact of stakeholder engagement will be interesting to observe and will have to be considered carefully. Selecting the appropriate data to measure and monitor will require some thought to understand if progress is being made consistently from period to period.

The Deloitte Academy

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For further details about the Deloitte Academy, including membership, please email enquiries@deloitteacademy.co.uk.

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