

IoD Code of Conduct Consultation Team
116 Pall Mall
London
SW1Y 5E
United Kingdom

1 August 2024

CODE OF CONDUCT CONSULTATION SUBMISSION FROM INDEPENDENT AUDIT LIMITED

Independent Audit Limited is a consultancy specialising in board effectiveness. We have been undertaking board performance reviews since 2001 for organisations in many sectors, both listed and unlisted. www.independentaudit.com

Independent Audit Limited welcomes the proposed IOD Code of Conduct.

We judge that it covers ground which is currently not addressed so explicitly in other sources.

Also we believe that, once it can be considered in the context of examples of the sort of pressures that boards and directors can come under, its value as a point of reference will be recognised.

A first reaction to the Code may be that it is a statement of the obvious. The vast majority of directors will be aiming to behave in this way in any case. And those that are not will not take heed of a Code. But the critical point is that even well-intentioned and morally sound directors come under pressure or have to make difficult decisions, often in complicated circumstances. So it can be helpful, whether in such circumstances, or as a periodic check, to refer to such a Code as a touchstone.

As the Consultation paper states, directors are operating “often in the face of complex challenges and trade-offs”. We suggest that this point be given a lot more prominence in the final document as it is the key to potential users recognising that it applies to them, even if they think that they already behave in the recommended ways.

It is a pity that the consultation document did not include the examples of where such complexities arise. We welcome the plan to include these as an annex in the final version of the Code. We suggest that the IOD look closely at how to tie in examples, rather than just allowing the core of the Code to speak for itself. The benefits of the Code will not be immediately clear as it might just be seen as a repetition of the obvious so this needs drawing out more fully as part of the main document, not just as an Annex.

We have no comments on the actual content as the statements of target behaviour are incontestable and the coverage is effective.

In answer to the specific questions raised in the consultation document:

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

No, the coverage is comprehensive and any expansion would add unhelpful length.

How can awareness of the Code be encouraged amongst directors and the wider public?

Effective use of examples is needed to make the Code a more interesting read and to draw out the benefits: currently it runs the risk of being seen as “a statement of the obvious” and nothing new. There are ample ways in which “stories” can be brought alive, not just through inserting more text to read e.g. through videos or animation. The IOD should try to bring innovative communication means rather than simply following the well-trodden path of a lengthy A4 read.

Should directors make a public declaration or disclosure of their adoption of the Code?

No. As the Code is an indisputable guide to good behaviour, it would seem odd to expect a public commitment to “behaving well” or behaving in a way that is implied as required when a director agrees to take on the responsibilities that come with the role. Also, if a director does not make such a declaration it would be wrong to assume that they do not work in like with the Code – so a public declaration from just some is of questionable value. No doubt there are also legal considerations around make such disclosures. Furthermore, how much weight could or should be attached to such declarations would be unclear.

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

Only to a very limited extent: their promotion of the Code (eg through their websites) will of course do no harm. But going any further than this could be unhelpful and would certainly add to the feeling of the governance burden being constantly ratcheted up. Such bodies should use their ammunition sparingly.

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

Possibly, but only as a commitment to our fellow directors on the board: there is nothing to object to and, more importantly, it is an important statement of how directors should behave. But there is little value in making such commitments publicly. Also, putting this expectation on directors is unreasonable: directors are obliged to meet their duties as directors and this legal commitment is enough.

Yours sincerely



Richard Sheath

Director

Mob: +44 (0) 7973887260

richard.sheath@independentaudit.com