

RESPONSE OF THE CHARTERED INSTITUTE OF PUBLIC FINANCE AND ACCOUNTANCY (CIPFA)

1 INTRODUCTION

- 1.1 CIPFA welcomes the review of the role and effectiveness of non-executive directors (NEDs). In CIPFA's view, non-executive directors can and do make a substantial contribution to the successful operation of organisations both in the private, public and voluntary sectors. As one of the leading professional accountancy bodies in the UK, and the only one which specialises in the public services, CIPFA has done much to promote effective governance in the public services and will continue to do so.
- 1.2 Having said this, CIPFA does not have a body of experience in Company Law and the legal framework surrounding the activities of the board and the responsibilities of NEDs of PLCs. CIPFA is not therefore in a position to provide a meaningful comparison of the current role of NEDs of PLCs to any perceived ideal role. Neither can we comment substantively on existing structures and procedures to facilitate effective performance.
- 1.3 In this context, rather than respond directly to the series of questions posed in the consultation paper, our submission instead draws on our experience of the role of boards and NEDs in the public sector and draws attention to factors that may have some relevance to the situation in the private sector. In particular this submission draws on a CIPFA publication, *On Board* (a copy of which is being sent separately), which provides guidance to board members of Non Departmental Public Bodies (NDPBs) on the principles of corporate governance and the structures that need to be in place to make governance effective.

2 ORGANISATIONAL STRUCTURES AND PROCESSES

- 2.1 In CIPFA's view, the role of the board of a public sector body (including any non executive members) is to provide leadership, vision, continuity of purpose and accountability to the public. This encompasses:
 - ensuring the body fulfils its statutory responsibility (through the setting of and monitoring against strategic aims and objectives commensurate with current policy);
 - developing strategies, plans and policies;
 - promoting and demonstrating commitment to core values, policies and objectives;
 - communicating with key stakeholders; and
 - providing information about achievement of objectives and stewardship of public monies.

The board also has a responsibility to ensure that the public sector body, as an employer, complies with employment law, anti discrimination/equal opportunities regulation, health and safety requirements and the requirements of the Human Rights Act 1998.

- 2.2 For effective board performance board members, including NEDs, should have clearly defined statements of roles and responsibilities to establish an expectation of what is required of them. Ideally board members should be appointed who already have the skills and experience to fulfil the role and responsibilities assigned to them. Where necessary induction and /or continuing training should be required to ensure board members are up to date with subjects relevant to their role on the board and the work of the organisation. In establishing the role and responsibilities of NEDs in particular, consideration should be given not just to strategic thinking and implementation activities but also to the need for challenge and reasonable scepticism to enable the NEDs to fulfil a monitoring and probity role. NEDs should provide an

independent judgement on issues of strategy, performance, resources and standards of conduct. They should be independent of management and free from any other relationships that may materially interfere with their role. They should specify their information needs in relation to their specified NED role. Ideally this should include sector specific comparative information.

- 2.3 With respect to maintaining the capacity for challenge and reasonable scepticism, many NED appointments in the public sector adhere to a recommendation of the Committee on Standards in Public Life that appointments should be limited to two terms of four or five years and that after this the NED stands down. If this is not a common practice in the private sector then it is worthy of consideration.
- 2.4 The chairman has a key role to play in ensuring the board works effectively. He or she should:
- provide leadership to the board, melding together the individual board members into a cohesive team, to enable it to carry out its responsibilities effectively;
 - enable all board members to make a full contribution to the board's affairs and ensure that the board acts as a team. This includes a role in ensuring all board members, when taking up office, are fully briefed on the terms of their appointment and on their duties and responsibilities. It also includes a role in appraising board members' performance and the contribution they make to the business of the body;
 - ensure that key and appropriate issues are discussed by the board in a timely manner;
 - ensure the board has adequate support and is provided efficiently with all the necessary information on which to base decisions;
 - ensure that the board, in reaching decisions, takes proper account of statutory and other requirements. Management's recommendations should be accepted only when the chairman is satisfied that the board has fully considered all the issues; and
 - ensure the board meets at regular intervals and that minutes of meetings accurately record decisions taken and, where appropriate, the views of individual board members.
- 2.5 Some commentators have raised the issue of the appropriate number of non-executive directorships. While there must be a limit to the number of appointments that any one individual can sustain, we would advocate a principles based approach rather than specify an absolute number. Conceivably, six "small" appointments could consume less time than one appointment to a substantial and complex organisation. In CIPFA's view, the Chairman should (in association with the appointments committee) play a key role in determining whether a potential appointee has the time available in the context of the requirements of the post and the candidate's existing commitments.
- 2.6 With the enhanced role of the non-executive director and greater interest in their effectiveness, there is a need to tap new sources of candidates. In CIPFA's view, there is a wealth of untapped talent to be found within public service and voluntary sector organisations. Individuals with such experience frequently have expertise that is particularly relevant – for example through their experience of partnership arrangements or through the establishment and operation of arm's length companies. In addition, individuals working in the public services and the voluntary sector are very strong on probity and propriety owing to their roles in relation to the stewardship of public money.

3 CONCLUSION

- 3.1 In the modern UK economy, the success of the public, private and voluntary sectors is increasingly dependant on each other's performance. The effective performance of NEDs in the private sector is therefore vital for the prosperity of the public and voluntary sectors. A flow of non-executive appointments between the sectors, with appointees conducting themselves in accordance with the principles outlined in this submission, would bring considerable benefit to the economy as a whole.