



IBE DRAFT GUIDANCE FOR BOARDS ON DEVELOPING AN ETHICAL BUSINESS CULTURE

Issued 11 August 2023

ICAEW welcomes the opportunity to comment on the draft “Guidance for Boards on Developing an Ethical Business Culture”, issued by the Institute of Business Ethics on 14 June 2023, a copy of which is available from this [link](#).

For questions on this response please contact our Ethics team at representations@icaew.com quoting REP 75/23

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KEY POINTS

1. ICAEW strongly encourages and promotes ethical culture within business.
2. ICAEW considers that ethics and compliance are closely linked and would strongly encourage companies to adopt and publish a Code of Conduct/Ethics and to establish an ethics and compliance programme which is overseen by the Audit Committee.
3. ICAEW believes that the draft guidance published by IBE will be a useful tool for developing ethical culture within business and would be of particular assistance in upskilling new non-executive board members.
4. ICAEW agrees that there is merit in adopting a clear principles-based approach and supports IBE's deliberate attempt to create a high-level practical checklist for busy board members to refer to.
5. ICAEW would recommend that the draft guidance includes links to additional tools and more detailed guidance to support board members in their decision-making process.
6. ICAEW would recommend that article 6 of the draft guidance should be strengthened to positively encourage businesses to adopt a formal code of conduct/ethics as a clear signal of their commitment to developing and promoting ethical business culture.
7. ICAEW would recommend that article 8 includes reference to regular training for the Board as well as employees, and the use of ethical case planning scenarios, so that the business is better prepared in the event of a critical incident.
8. ICAEW considers that incentives should explicitly encourage ethical behaviour and discourage unethical behaviour.
9. ICAEW would recommend that article 10 include a reference to the use of regular after-action reviews, in which key decisions and consequences are assessed in the light of the Board's stated purpose and values. Ideally, these should be done for all key decisions, and not just in the case of failure or material ethical lapses.

DETAILED COMMENTS ON THE DRAFT GUIDANCE

General points

10. ICAEW believes that the draft guidance published by IBE will be a useful tool for developing ethical culture within business and would be of particular assistance in upskilling new non-executive board members.
11. ICAEW agrees that there is merit in adopting a clear principles-based approach and supports IBE's deliberate attempt to create a high-level practical checklist for busy board members to refer to.
12. ICAEW would recommend that the draft guidance includes links to additional tools and more detailed guidance to support board members in their decision-making process.

Introduction

13. ICAEW is strongly supportive of attempts to improve ethical culture within business. This should go beyond mere "reputation management". As such, ICAEW considers that the introductory paragraph of the guidance could usefully highlight the rationale for, and business resilience impacts relating to, such improvements: that companies are more likely to attract stakeholders if they have a clear and public policy about the importance of a strong and healthy ethical culture; and are more likely to keep those stakeholders engaged, if they are seen to be adhering to that policy and if their staff are seen to embody the values set out in that policy.
14. However, ICAEW considers that business ethics and compliance are necessarily interconnected. The adoption and publication of a company Code of Ethics should be accompanied by wider governance reform. This useful high-level guidance for Boards should

map across to what companies are actually doing and what is already considered good, if not best, practice.

15. In ICAEW's view, this would include an Ethics & Compliance Programme with the head (CECO) reporting into the company's Audit & Risk Committee. ICAEW is firmly in favour of the Audit Committee having oversight of a company's Ethics and Compliance Programme.

Article 1

16. The article might benefit from additional emphasis on the fact that tone and culture **comes from the top**.
17. ICAEW considers that the Chair should be the "board ethics champion" and that all board members should also champion ethics individually and collectively.
18. ICAEW would recommend that the draft guidance should make it clearer that review of the business's ethical culture should be a regular standing item on the board's agenda.

Article 2

19. ICAEW notes that provision of "evidence of ethical behaviour" might be difficult to produce in practice, and respectfully suggests that this paragraph might read better as :

"the Board and Management should satisfy themselves that successful candidates understand the importance of being a role model for the desired values and behaviours and that they are expected to act decisively when senior leaders..."

Article 3

20. ICAEW considers that it would be helpful to explain more precisely what is meant by the "multiple touch points" and the actions intended in this paragraph.

Article 6

21. ICAEW would recommend that the wording in article 6 of the draft guidance should be strengthened to positively encourage businesses to adopt a formal Code of Conduct/Ethics as a clear signal of their commitment to developing and promoting ethical business culture.
22. ICAEW would suggest that the Code supports the company's explicit Anti-Bribery & Corruption philosophy and policies, as well as its compliance with all applicable laws and regulatory frameworks.

Article 8

23. ICAEW would recommend that article 8 includes reference to regular training for the board as well as employees, and the use of ethical case planning scenarios, so that the business is better prepared in the event of a critical incident.

Article 9

24. ICAEW considers that Incentives should **explicitly** encourage ethical behaviour and discourage unethical behaviour.

Article 10

25. ICAEW would recommend that article 10 include a reference to the use of regular after-action reviews, in which key decisions and consequences are assessed in the light of the Board's stated purpose and values. Ideally, these should be done for all key decisions, and not just in the case of failure or material ethical lapses.

Article 12

26. ICAEW considers that the procedure referenced in this article should be strengthened in line with best practice, and would respectfully recommend changing this to:

“the responsible Director or CxO should report to the board and/or the Audit Committee and have unfettered access to the Chair of the board and the chair of the Audit Committee.”