

10 September 2018



**Registered Office:**  
Portsmouth Water Ltd  
PO Box 8  
Havant  
Hampshire PO9 1LG

Tel: 023 9249 9888  
Fax: 023 9245 3632  
Web: [www.portsmouthwater.co.uk](http://www.portsmouthwater.co.uk)

Please ask for  
Our Ref  
Your Ref

Dear Ofwat

### **Consultation on revised Board Leadership, Transparency & Governance principles**

Thank you for the opportunity to comment upon these proposals. In general terms we are supportive of principles which align to strong governance and support Company behaviours which are transparent and aid legitimacy.

In general terms we do note, however, that many of the principles are already enshrined in existing corporate responsibilities; namely the Companies Act and UK Corporate Governance requirements.

We also have some minor concerns that the interpretation of whether or not principles have been met could become somewhat subjective. It is therefore important that this is both implemented in a pragmatic and proportionate fashion.

We have set out below our comments on the specific questions. We would be happy to discuss our responses further should it be helpful.

*Q1: Do you agree with the objectives for the principles we have set out (in Table 1 of this chapter)?*

We are supportive of the principles.

*Q2: Do you agree with the aim of setting principles that enable autonomy and flexibility for companies to deliver the highest standards of accountability and responsibility for their behaviour and outcomes, reflecting their own circumstances?*

Whilst recognising that the majority of these principles are already covered by responsibilities of the Board and the Company (through Companies Act and UK Corporate Governance requirements). We believe that the aim is consistent with good Governance Principles for the industry.

*Q3: Do you agree that if companies are unable (exceptionally) to comply with specific principles, they should explain very clearly how their approach meets the spirit of the principles?*

We are supportive of a “comply or explain” principle consistent with the approach in UK Corporate Governance. We do however, have some concerns about ensuring that Ofwat’s interpretation of whether principles have been met is proportionate and pragmatic.

*Q4: Do you agree with our proposed principle for purpose, values and culture?*

We are supportive of the principle.

*Q5: Do you agree with our proposed board leadership and transparency principle?*

We are supportive of the principle.

*Q6: Do you agree with our proposed principle for the stand-alone regulated company?*

We are supportive of the principle.

*Q7: Do you agree with our proposed board effectiveness principle?*

We are supportive of the principle.

*Q8: Do you think that the requirement for an independent chair should be a stand-alone licence obligation or should we allow some flexibility? If the latter, what mitigations would be appropriate where a company does not have an independent chair?*

We support the importance of retaining independent Chairs. However, on balance we feel that Companies should retain some flexibility in this area. This could be mitigated through further compliance disclosures.

*Q9: Overall, how well do the proposed principles meet the aim of enabling autonomy and flexibility for companies to deliver the highest standards of accountability and responsibility for their behaviour and outcomes, reflecting their own circumstances (rather than setting overly prescriptive rules)?*

In our view the proposed principles are consistent with this aim.

*Q10: Do you agree with our proposal to insert a requirement in companies' licences that they must meet the principles?*

We agree with this proposal subject to our comments relating to possible subjectivity of compliance and the need for a proportionate and pragmatic approach to be taken.

*Q11: Do you agree with our proposal for an appeal mechanism and a change process in the proposed licence condition to meet the principles?*

Yes.

*Q12: Are there specific instances where individual companies' licence conditions might conflict or overlap with the revised principles?*

We have not currently identified any.

*Q13: Do you agree that we should insert a requirement in companies' licences that independent non-executive directors should be the single largest group?*

We support this position subject to both transitional arrangements and a recognition that there may be relatively short periods of time when companies do not meet the requirement due to short notice changes in Board composition.

*Q14: Do you agree with our proposal to use the criteria for independence as set out in the UK Corporate Governance Code? Do you think that there are any merits in instead setting out an alternative approach whereby we would insert criteria for independence in the licence?*

This appears to be a sensible approach.

*Q15: What are your views on the merits of going further than our proposal and instead requiring that independent non-executive directors to be the majority on the board? If we take this approach, should this be a sub-principle or licence requirement?*

We are not supportive of this further proposal. For a small Company, this would add unnecessary cost to the business.

If you have any further queries please do not hesitate to contact me.

Yours sincerely

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Finance and Regulation Director