

GOVERNANCE FOR COMMUNITY INTEREST COMPANIES

A PRACTICAL FRAMEWORK

10 SEPTEMBER 2015



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FOREWORD

Sara Burgess

REGULATOR OF COMMUNITY
INTEREST COMPANIES

10 SEPTEMBER 2015

This practical framework offers Community Interest Companies (CICs) directors guidance on effective governance, which ought to be robust and well-considered, as CIC directors are responsible for the corporate behaviour of the CICs they govern.

The Community Interest Companies model is ten years old in 2015 and it has been a unique success through its structure, delivery, growth and development.

Each CIC is unique in its operation and strategy, but they all define themselves through the CIC concept and brand, which they sign up to transparently and in perpetuity, on becoming a CIC.

Directors of a CIC have a duty to all their stakeholders and, in some companies, stakeholders who are also shareholders. These duties are underpinned by company law, but with CICs there is also much greater ethical and philosophical consideration of purpose, outcomes and use of assets which means seeking

to ensure that good, clear and suitable governance is in place as a matter of good practice from the start.

The Community Interest Company Regulations of 2005 lay out the essentials of meeting the requirements of the legislation in which the CIC model is embedded. CICs must demonstrate that they understand these requirements, they are willing to abide by them and report to the regulator to show compliance.

But there is far more to being a CIC than the regulations. This document has been written to encourage a focus on good governance practice, which should be at the heart of the way a CIC operates.

In 2014, the CIC legislation was changed to remove burdens and enable investment into, and growth opportunities for, CICs. In light of relaxations to the regulations, it has become even more important for CICs to demonstrate strong and suitable governance, which is led from the top by the board of directors. The document



is not part of the regulations but CICs will be encouraged to subscribe to it and to show their willingness to apply these principles of good governance.

This practical framework is for CICs and is designed to help them acknowledge and interpret their community focus in a way that promotes and contributes to the good reputation of the CIC brand. Directors must understand from the beginning what the purpose of a CIC is and how the CIC regulations apply. They must share the vision for community purpose and apply this to their mission as a CIC. CICs are set up to meet a community need and this remains the purpose for the life of the company.

‘Once a CIC, always a CIC’ – and the governance of the company should reflect this commitment.

This document acknowledges that some CICs are very small and that increased scale will increase the focus on governance. This does not mean that governance is not important for

smaller CICs, but it does acknowledge that the expectations in practice may be different according to the size of the operation.

All directors of CICs have a primary duty to advance the community purpose, in addition to their other responsibilities as company directors, as laid out in the Companies Act 2006 and Companies (Audit, Investigations and Community Enterprise) Act 2004 and Regulations 2005. Stakeholder involvement is therefore essential for the company to learn and understand how it is meeting community need and how it can improve and develop.

CICs are accountable for their activity and behaviour under the CIC regulations. This guidance is not intended to increase the burden on CICs but to help them make the most of their business and to achieve greater success with more robust governance.

I hope this practical framework will help you strengthen your governance.

FOREWORD

Luke Fletcher

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10 SEPTEMBER 2015

The CIC is a unique creature in the landscape of legal forms. Unlike other companies, it does not exist for its members or shareholders – it exists to benefit a defined community of people.

This is no small distinction – it changes everything. For directors of CICs, it changes the frame of reference through which all decisions are made. It is like looking at the world through a prism – suddenly every issue and every crossroads comes to be seen in a new light.

It is now 10 years since the CIC came into being. The story of the CIC in that time has been a story of unprecedented growth and innovation.

Today, the CIC is no longer simply an original idea about a new type of

corporate form but the vehicle of choice for countless social entrepreneurs who are getting their hands dirty and giving of themselves to serve communities the length and breadth of the country.

I wonder if Stephen Lloyd and Roger Warren-Evans could ever have imagined that the idea they cooked up over a bottle of claret would spawn over 11,000 CICs in a decade. Sadly, Stephen is not with us to celebrate the 10th anniversary of the CIC but the CIC and its exploits will surely be his enduring legacy for the benefit of the nation.

Without his inspiration, imagination, entrepreneurialism and drive, we would not be celebrating the CIC today.

And yet the burgeoning reputation of the CIC is also due in no small part to



the careful stewardship and deft touch of Sara Burgess, who has been the CIC Regulator for eight of the last ten years – the ‘foster mother’ of the CIC! In that time, the CIC has grown steadily in numbers and stature and navigated a number of challenges, including various technical reforms to the dividend and payment caps, all with the good name of the CIC beyond doubt.

The practical framework for governance set out in this paper is designed principally for those social entrepreneurs behind the growth in CICs who are looking to build a board and develop good governance practices. It is not a code or a textbook. It is a voluntary set of practical principles, hints and tips and should be a useful starting point for anyone looking to

demystify governance and build firm governance foundations.

The good name of each CIC will ultimately depend on the quality of its governance – which will always come down in the end to putting benefit to the community above all other interests.

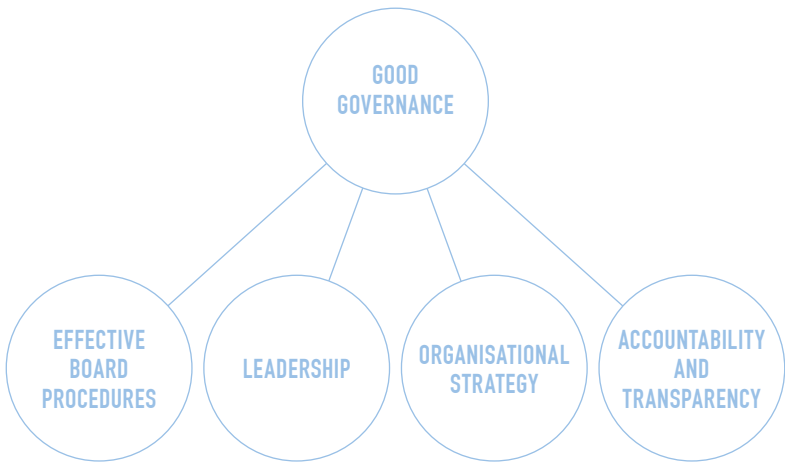
INTRODUCTION

Good governance is essential for the success of any organisation and is now more important than ever. The directors of CICs play a vital role in bringing their skills, commitment and experience to CICs.

This guidance is aimed at helping CIC directors to provide strong leadership, enhance their decision-making and make the most of their collective capabilities.

Governance is the system and process for ensuring the overall effectiveness, leadership, strategy and accountability of an organisation. A CIC should be able to demonstrate that it is well governed.

This practical framework should by no means be treated as a comprehensive summary of the law. It is not intended to be exhaustive in any way, it is a practical framework – and should be read in conjunction with other guidance listed in Annex 3. —→



Governance considerations for CICs: setting the scene

Limited companies are generally required to put the interests of members first, which is often understood to mean maximising profits. CICs are different. The primary duty of CIC directors is to serve the CIC's community purpose. However, as with any other commercial company, a CIC must comply with company law and it needs to remain solvent. If a CIC fails to break even as a result of its activities, it will eventually fail altogether.

The directors of CICs therefore have to be able to balance achieving the community purpose with staying solvent. By balancing these two objectives, CICs up and down the country are developing new ways of doing business for the common good.

Because CICs are established to achieve a community purpose, people will often expect them to meet higher standards than they expect of commercial companies, so it is important that CICs are seen to act as responsible corporate citizens.

CIC boards should set the long-term vision and protect the reputation and values of their CIC. All CIC boards need to have appropriate procedures and policies in place, but they also need to develop good working relationships with the rest of the organisation and understand the role of key stakeholders.

The Good Governance Principles: a summary

The following four good governance principles should be used to establish your governance strategy. We think these principles are essential for good governance.

1. Effective Board Procedures

By establishing appropriate policies and procedures, an effective board will provide a sound framework for good governance to develop.

2. Strong Leadership

Strong leadership is needed to implement good governance and is essential to enable a CIC to work successfully and achieve its goals.

3. Organisational Strategy

Ensuring a CIC has a reasoned and clearly explained strategic vision will help it to deliver its stated purposes and aims. An effective board will set out a clear organisational strategy, so that everyone is clear where the CIC is going.

4. Accountability and Transparency

Accountability and transparency enable a CIC to win and build public trust and confidence. An effective board will take steps to ensure that there is accountability and transparency both internally and externally.

**“A STRONG
BOARD WILL
BE CLEAR
ABOUT HOW
DECISIONS
ARE REACHED”**

EFFECTIVE BOARD PROCEDURES

Why is this important?

A strong board will be clear about how decisions are reached and will set high standards, so that good decisions are made in the best interests of the CIC.

What does this involve?

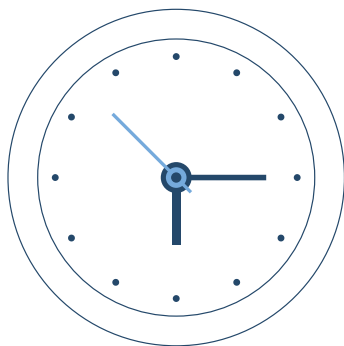
The board of a CIC should have governance procedures in place to ensure that it works effectively and directors should be clear about their role and responsibilities. The board should review its governance procedures and keep them up to date as markets and legislation change.

How should this be achieved?

The board of a CIC should:

- ensure that all directors are given a good induction and ongoing mentoring and support thereafter; for example, the CEO or another senior executive should meet with all new directors to discuss the CIC's vision, mission and strategy, its articles of association, latest published accounts, last three months' management accounts, budget, strategic plan and who the stakeholders are in the community of interest
- be clear about who will chair each board meeting

- ensure board meetings have enough time and the right kind of information to be able to make considered decisions effectively
- regularly review the board's membership, making sure there is an appropriate balance of views, skills, knowledge and experience
- ensure there is an agenda, minutes of the last meeting and any board papers are available in good time to prepare for meetings
- consider circulating a 'forward agenda' with an action list so all directors are aware of key actions, decisions and responsibilities
- ensure that conflicts of interest are properly managed including any potential conflicts between the personal interests of the directors and the interest of the CIC.



**“GOOD
LEADERSHIP
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ACHIEVE
THEIR GOALS”**

LEADERSHIP

Why is this important?

Good leadership is essential to help organisations achieve their goals.

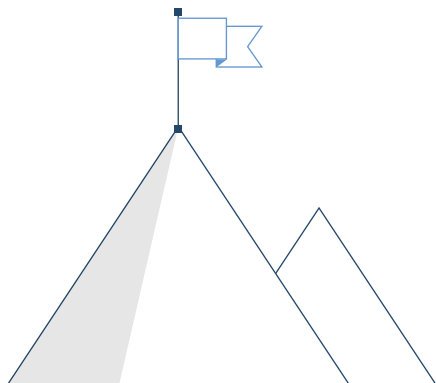
What does this involve?

The board is collectively responsible for leading the CIC to long term success. For a CIC, building an effective board can help you to develop your vision and community purpose, execute your plans effectively, and manage risks.

How should this be achieved?

The board of a CIC should:

- understand their duties under the Companies Act 2006 (see Annex 1) and other relevant company law
- be clear about the purpose of the CIC and of what is going on around them in the external environment
- set and safeguard the vision, values and reputation of the CIC
- recognise the role of non-executive directors to constructively challenge and help develop the CIC
- ensure that directors appointed by third parties understand that their duties are to act in the best interest of the CIC at all times and not to represent the appointing body or act in the appointing body's interests
- where CICs start with a single director, think about how more directors can help spread responsibility and develop the business.



**“THE BOARD
MUST SET
A STRATEGY
SO EVERYONE
IS CLEAR
WHERE THE
CIC IS GOING”**

ORGANISATIONAL STRATEGY

Why is this important?

The board must set organisational strategy, so that everyone is clear where the CIC is going.

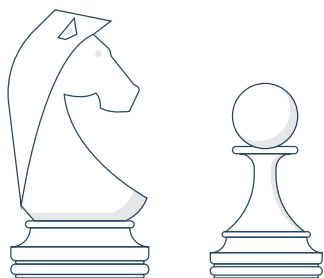
What does this involve?

The board need to have an overview of the CIC's community purpose and how its operations will help it achieve its intended outcomes. This will involve using the board's skills, experience, knowledge and independence to oversee and direct operations and, where appropriate, should involve stakeholders.

How should this be achieved?

The board of a CIC should:

- set the CIC's strategy, budgets, policies and procedures
- ensure that the CIC's strategy remains relevant and achievable
- agree an appropriate plan for the ongoing development of the CIC to deliver the strategy
- regularly monitor business performance, including impact and performance of the business against budgets and targets
- evaluate the results, outcomes and impacts of the business
- ensure the CIC consults regularly with its stakeholders – the community which is being served, employees, volunteers, suppliers, funders, partners, collaborators, customers and all who became part of its community – with a view to involving them in the development of the strategy of the CIC where appropriate.



**“IT IS IMPORTANT
FOR CICS TO
BUILD TRUST
THROUGH BEING
OPEN AND
TRANSPARENT”**

ACCOUNTABILITY AND TRANSPARENCY

Why is this important?

It is important for CICs to win and build trust and confidence through being open and transparent to the community and stakeholders that the CIC serves.

What does this involve?

The starting assumption should be that the board will share its general strategy, direction and decisions across the community of its stakeholders. Where commercial confidentiality is needed, the board should be clear about why keeping information confidential serves the community purpose.

How should this be achieved?

The board of a CIC should:

- ensure that the CIC meets all legal requirements under company law and in particular CIC law (see key reporting deadlines in Annex 2)
- post public documents, accounts, articles, annual CIC report and other relevant public information on the CIC website as appropriate
- use the annual CIC report to show the extent of the CIC's impact, even if the impact is unexpected or negative
- to treat staff, customers, suppliers and the community of interest fairly and be environmentally aware

- be transparent about financial and other matters and in particular we would encourage CICs to:

- consider publishing additional information about the profitability and commercial margins of the CIC in addition to standard accounts, where this would serve the community purpose
- consider publishing the ratio of the highest paid to the lowest paid member of staff¹
- consider how all remuneration paid is 'reasonable'.

CICs limited by shares that have adopted schedule 3 articles must be able to show the CIC remains true to its community purpose. The directors should be able to show how the returns provided to investors are reasonable and necessary to enable the CIC to raise capital, run its business and to advance its community purpose. To do this we recommend using the detailed version of the CIC annual report.²

¹ Report of the Inquiry into Charity Senior Executive Pay and Guidance for Trustees in Setting Remuneration, set up by the National Council for Voluntary Organisations (NCVO), April 2014. http://www.ncvo.org.uk/images/documents/about_us/our-finances-and-pay/Executive_Pay_Report.pdf

² The Office of the Regulator of Community Interest Companies (CIC Regulator)'s forms for submitting a simplified or detailed CIC report. <https://www.gov.uk/government/publications/form-cic34-community-interest-company-report>



ANNEX

ANNEX 1: DIRECTOR'S DUTIES

As with any other company, the directors of a CIC occupy an important position of trust, and company law imposes on them a range of duties. The directors are responsible for ensuring that the CIC meets its statutory and other obligations.

The Companies Act 2006 codifies the general duties which directors owe to the company. A CIC director has the following duties under the Companies Act 2006:

- 1. To act within the company's powers**
- 2. To act in the way he or she considers, in good faith, would be most likely to achieve the community purpose of the company, and in doing so have regard (amongst other matters) to:**
 - the likely consequence of any decision in the long term
 - the interests of the company's employees
 - the need to foster business relationships with customers, suppliers and others
 - the impact of the company's operations on the community and the environment
 - the desirability of the company maintaining a reputation for high standards of business conduct
 - the need to act fairly as between the members of the company
- 3. To exercise independent judgement**
- 4. To exercise reasonable care, skill and diligence**
- 5. To avoid conflicts of interest**
- 6. Not to accept benefits from third parties**
- 7. To declare an interest in proposed transactions or arrangements and in existing transactions and arrangements where appropriate.**

ANNEX 2: KEY REPORTING DEADLINES

The reporting table set out below contains the main regulatory deadlines with which a CIC has to comply. These obligations are aimed at ensuring that the company maintains proper financial records, produces accounts and provides Companies House with information to keep the public record up to date.

In particular, CICs have to produce an annual report to the CIC regulator – the CIC34 form. The purpose of the CIC report is to show how the CIC is continuing to satisfy the community interest test, and that it is engaging appropriately with its stakeholders in carrying out its activities, which benefit the community.

REGULATOR / DESCRIPTION	LEGAL DUE DATE
COMPANIES HOUSE	
Annual Return AR01	Within 28 days of the 'made-up date' which is usually the anniversary of: • the incorporation of the company, or • the 'made-up' date of the previous annual return registered at Companies House.
Audited Accounts	Nine months after financial year end.
Form AA01 Changing accounting reference date	Within nine months of incorporation (if required).
Forms AP01–AP04, TM01–TM02, CH01–CH04 Appointment, removal, or change in particulars of a director or secretary	Within 14 days of change.
Form CC04 Notice of change to a company's objects	Within 15 days of change.
Forms CC01–CC03 Notice of insertion, amendment or removal of an entrenched provision	Within 15 days of change.
Form MR01 Registering a charge or Form MR04 releasing a charge	Within 21 days of charge being created.
Form AD01 Notice of a change to the registered office	Within 14 days of change.

Definitions

Tax year 6 April to 5 April.	Financial year Chosen by the CIC (and ending on the accounting reference date).	VAT quarter As agreed with HMRC.
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REGULATOR / DESCRIPTION	LEGAL DUE DATE
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INFORMATION COMMISSIONER

'Notification' or registration	At outset of processing data and annual renewals.
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HMRC

VAT Return	One month following end of VAT quarter (if appropriate).
P35 Employer Annual Return	19 May following end of tax year.
P11D Expenses and benefits	6 July following end of tax year.
Class 1A National Insurance Rectification	19 July following end of tax year.
Corporation Tax Return	Twelve months following end of financial year or three months after reminder notice [CT603] received from HMRC, whichever is the later.

CIC REGULATOR

Annual CIC Report CIC34 form	At same time as filing annual accounts.
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ANNEX 3: SUGGESTED FURTHER READING

Good Governance: a Code for the Voluntary and Community Sector

www.governancecode.org/

CIC Guidance Chapters

www.gov.uk/government/publications/community-interest-companies-how-to-form-a-cic

Onboard Governance Development

www.on-board.org/

ICSA Governance and Compliance

www.icsa.org.uk/products-and-services/governance-and-compliance

Knowhow Non Profit

<http://knowhownonprofit.org/leadership/governance>

International Organization for Standardization

www.iso.org/iso/home/standards.htm



Governance for Community Interest Companies: A Practical Framework is a collaboration between the following organisations and individuals who collectively have deep knowledge and experience of advising and supporting CICs. It has been produced following consultation with the CIC regulator.

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