

24 October 2016

Inquiry on Corporate Governance

Written evidence submitted by the Council for Work and Health (CfWH) to the Business, Innovation and Skills (BIS) Select Committee of the House of Commons.

In providing this response to the BIS Select Committee, the Council for Work & Health has focused on the issue of the role of directors and non-executive directors to ensure the health and wellbeing of its workforce. The protection of the health of the workforce is an important duty for Board directors - for business, legal and ethical reasons.

Executive summary

The Council proposes that:

- Companies be required to ensure that their Articles of Association recognise the role of the organisation and the role of the workplace in promoting health, wellbeing and welfare.
- Companies should also have a standing item of safety, health and wellbeing on the agenda of their executive board with clear lines of reporting and responsibility.
- The company's annual report should also contain an account of what steps have been taken during the year in these areas, in addition to any necessary accident and injury data.
- As we witnessed with the so-called 'six-pack' EU Directives, guidance on its own not backed by legal sanctions is seldom sufficient. Some direct link to the relevant legislation, such as the Management Regulations,ⁱ focuses the minds of managers, especially those in the middle of the management hierarchy. When they are concerned about dealing with costly issues, they will refer them upwards rather than risking making the wrong decision. The board of directors must be made aware of the ultimate legal responsibilities of senior management and must establish policies and procedures for middle and line managers to follow.

1. The Council for Work and Health was set up as a direct response to and as recommended in the review by Dame Carol Black of the health of Britain's working age population, presented to the Secretary of State for Health and the Secretary of State for Work and Pensions in March 2008ⁱⁱ.

2. The Council has an independent chair, Professor Diana Kloss MBE, who is an occupational health law expert and barrister. The Council is a company limited by guarantee with 26 member bodies. It has an elected Board and aims to speak with one voice for a wide range of professions including occupational health physicians and nurses, physiotherapists, vocational rehabilitation practitioners, occupational therapists, psychologists, ergonomists and health and safety professionals.

3. The Council supports the principles that good work promotes health and that a healthy workforce is good for business. It recommends that the inquiry take steps to raise the profile of company directors' existing responsibilities for the safety, health and welfare of their employees (and indeed all those affected by their business), not just to meet the legal responsibilities that all employers have for protecting people from ill health and injuryⁱⁱⁱ, but also because it makes sound business sense to invest in a company's key asset - its people.

4. In addition to their specific risk assessment and management duties under the Health and Safety at Work etc Act^{iv}, directors need to take the health and wellbeing of their workforce seriously to fulfil their obligations to promote the long term success of the company. Health and Safety and Occupational Health professionals are able to act as competent persons to advise on these responsibilities^v. It is, however, important to recognise that this advice needs to be delivered at Board level, rather than delegated to junior managers, such as Human Resources departments, as many Council members have observed in their extensive practical experience.

5. Looking ahead, the Council recognises that the potential demand for occupational health services, including health and safety advisers, as sources of competent professional advice, is likely to increase dramatically over the coming years due to:

- The changing workforce demographic, with people staying at work longer.
- The broadening of health, safety and welfare requirements from simply protecting basic safety to a much wider view of health and wellbeing.

6. The Council is therefore working on a project led by Professor John Harrison, Head of the National School of Occupational Health, which has already established that existing occupational health delivery channels will not cope, and that new mechanisms are required^{vi}. Council members have also contributed to the recent submission by the All Party Parliamentary Group on Occupational Safety and Health^{vii} on the manpower crisis in occupational medicine.

7. The Council has also collaborated on a number of projects to develop tools to help businesses address these issues, which would benefit from recognition by the inquiry. These include:

- National Institute for Health and Care Excellence (NICE) – through its Chair the Council contributed to the NICE guidance entitled ‘Workplace health: management practices’, (2016).
- British Standards (BSI) – through its Deputy Chair, the Council contributed to the development of the British Standard entitled ‘The Human-centred Organisation – Rationale and General Principles’, (2016).

8. In theory, the responsibility of directors is clear but the Council believes that in practice it is poorly understood and needs to be strengthened. Only safety can be considered as being as one of the widely accepted business responsibilities in current practice. The Council therefore believes that there is an opportunity to reinforce the directors’ duties to protect and enhance the health and wellbeing of their employees.

- Professor Diana Kloss, Chair
 - Tom Stewart, Deputy Chair
 - Council for Work and Health
- www.councilforworkandhealth.org.uk

ⁱ Available from the HSE website at: <http://www.hse.gov.uk/involvement/competentperson.htm>

ⁱⁱ Black C (2008). *Working for a Healthier Tomorrow*, 17 Mar 2008, London, The Stationery Office ISBN 978 0 11 702513 4. Available online at: <https://www.gov.uk/government/publications/working-for-a-healthier-tomorrow-work-and-health-in-britain>

ⁱⁱⁱ Legal responsibilities placed on employers are summarised by the Health and Safety Executive on their website at: <http://www.hse.gov.uk/workers/employers.htm>

^{iv} Guidance from the Health and Safety Executive on the legal responsibilities placed on employers to take the lead on health and safety at work is available from the HSE website at: <http://www.hse.gov.uk/leadership/legislation.htm>

^v The Health and Safety Executive provides guidance on the legal requirement for employers to get help from a competent person to enable employers to meet the requirements of health and safety law at: <http://www.hse.gov.uk/involvement/competentperson.htm>

^{vi} Council for Work and Health (2016). *Final Report: Planning the future: Implications for occupational health; delivery and training*; March 2016, available from the Council for Work and Health website at: http://www.councilforworkandhealth.org.uk/news.php?id=occupational_health_workforce_project_final_report

^{vii} Available from the website of Ian Lavery MP, the Chair of the APPG at: http://www.ianlavery.org.uk/forms/shares/new?page_id=150