



King IV for Health and Social Care

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The Good Governance Institute exists to help create a fairer, better world. Our part in this is to support those who run the organisations that will affect how humanity uses resources, cares for the sick, educates future generations, develops our professionals, creates wealth, nurtures sporting excellence, inspires through the arts, communicates the news, ensures all have decent homes, transports people and goods, administers justice and the law, designs and introduces new technologies, produces and sells the food we eat - in short, all aspects of being human.

We work to make sure that organisations are run by the most talented, skilled and ethical leaders possible and work to build fair systems that consider all, use evidence, are guided by ethics and thereby take the best decisions. Good governance of all organisations, from the smallest charity to the greatest public institution, benefits society as a whole. It enables organisations to play their part in building a sustainable, better future for all.

"Organisations only exist in order to deliver on their purpose and, similarly, governance only exists in order to help them do that,"

***says Professor Deon Rossouw,
CEO of The Ethics Institute.***

"Governance got a bad name because people persist in seeing it in terms of compliance, structures and policies. Of course, these things are important only as tools to help deliver outcomes."

"The spirit of Ubuntu - that profound African sense that we are human beings only through the humanity of other human beings - is not a parochial phenomenon, but has added globally to our common search for a better world"

- Nelson Mandela

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GGI is an independent organisation working to improve governance both through direct work with individual boards and governing bodies, and by promoting better practice through broader, national programmes and studies. We run board development programmes, undertake governance reviews and support organisations develop towards authorisation.

Other recent GGI reports and board development tools have considered integrated governance, governance between organisations, scrutiny and assurance, system transformation and new models of care, enablers in the delivery of system transformation, the future of the NHS, and of course good governance.

GGI is committed to develop and promote the Good Governance Body of Knowledge.

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Overview

In May 2009 the Good Governance Institute (GGI) reviewed the publication of Judge Mervyn King's KING III report on corporate governance. At the time we said that 'there is much in the Code and Principles of KING III that lends itself to the new NHS Landscape in the UK'. Since then we have had further reform and retrenchment and the ensuing confusion suggests the need to focus on principles rather than rules for direction. The King IV Report on Corporate Governance for South Africa 2016 was published on 1 November 2016.

GGI believes that applying the King IV approach will support NHS organisations to improve their governance arrangements and, as a result, deliver effectiveness and be able to evidence compliance with regulatory requirements.

King IV's objectives are to:

- Promote corporate governance as integral to running an organisation and delivering governance outcomes such as an ethical culture, good performance, effective control and legitimacy.
- Reinforce corporate governance as a holistic and interrelated set of arrangements to be understood and implemented in an integrated manner.
- Encourage transparent and meaningful reporting to stakeholders.
- Present corporate governance as concerned with not only structure and process, but also with an ethical consciousness and conduct.
- Broaden the acceptance of the King IV by making it accessible and fit for implementation across a variety of sectors and organisational types.

King IV now includes sector supplements that provide specific guidance to the different categories of organisations and sectors including:

- Small and medium enterprises;
- Non-profit enterprises;
- Public sector organisations and entities;
- Municipalities; and
- Pension funds.

King III placed great emphasis on Leadership, Sustainability and Corporate Citizenship. King IV sees the model reaching maturity by defining corporate governance as the exercise of ethical and effective leadership by the governing body towards the achievement of four governance outcomes:

- Ethical culture
- Good performance
- Effective control
- Legitimacy.

The new model defines a simple focus on practice delivering outcome by defining a set of principles which guide organisations on what they should set out to achieve. Principles are achieved by mindful consideration and application of the recommended practices. Biennial Board reviews support feedback and learning.

King I, II and III have served as a benchmark for corporate governance in South Africa, and the world, for the past twenty-four years and continues to proudly do so with the King IV Report on Corporate Governance for South Africa released by the Institute of Directors in Southern Africa (IoDSA) and the King Committee. The full 2016 report is available at: <https://www.iodsa.co.za/page/DownloadKingIVapp>



Purpose & Role

King IV clarifies the role of the governing body (Board). The Board's primary governance roles and responsibilities are:

1. Steering the organisation and setting the strategy, whilst defining the way in which the specific governance areas are approached, addressed and implemented;
2. Approving policy and ensuring planning giving effect to the approved strategy and direction;
3. Overseeing and monitoring the performance of the organisation and the execution of the strategy by the Executive; and
4. Ensuring accountability for organisational performance, by means of amongst others, ethical and transparent reporting and disclosure.

Principles

The 75 King III principles have been consolidated into 16 principles (Principle 17 does not apply), each linked to very distinct outcomes. The focus in King IV is on ensuring that the application of the principles achieves specifically identified outcomes. Each principle is supported by a limited number of recommended practices, and requires specific disclosures.

King IV now incorporates integrated reporting. An integrated report could be a standalone report which connects the more detailed information in other statutory reports and which addresses, at a high level and in a complete, concise way, the matters that could significantly affect the organisation's ability to create value in a set of locally defined 'capitals' such as staff wellbeing or environmental factors within a community.

For example King IV now recognises information in isolation of technology as a corporate asset that is part of the company's stock of intellectual capital and confirms the need for governance structures to protect and enhance this asset

More information on this is contained in the joint 2014 GGI/Grant Thornton paper: 'Integrated Reporting <IR> Value creation and stakeholder engagement in the NHS' and the The new Integrated Governance Handbook 2016, GGI 2016 available at: www.good-governance.org.uk/services/the-new-integrated-governance-handbook-2016/

'King IV: On a page' set of principles from the Institute of Directors South Africa can be found in full on pg.14 of this document.

Leadership by the Board

Ethical and effective leadership should complement and reinforce each other.

Ethical leadership is exemplified by integrity, competence, responsibility, accountability, fairness and transparency. It involves the anticipation and prevention, or otherwise amelioration, of the negative consequences of the organisation’s activities and outputs on the economy, society and the environment and the capitals that it uses and affects.

Effective leadership is results-driven. It is about achieving strategic objectives and positive outcomes. Effective leadership includes, but goes beyond, an internal focus on effective and efficient execution.

Similarly the Care Quality Commission (CQC) Well Led domain requires providers to demonstrate that the *“leadership, management and governance of the organisation assures the delivery of high-quality person-centred care, supports learning and innovation, and promotes an open and fair culture”*.

NHS Improvement (NHSI) has now developed an aligned framework for making judgements about how well led NHS providers are. The new (2017) framework maintains focus on strong integrated governance and leadership across quality, finance and operations, and in line with the changing operating environment. The well-led framework is structured around eight key lines of enquiry (KLOEs) and applies to both NHS trusts and foundation trusts. This guidance is issued on a ‘comply or explain’ basis.

NHSI recommends In-depth, regular and externally facilitated developmental reviews of leadership and governance as good practice across all industries. Rather than assessing current performance, these reviews should identify the areas of leadership and governance of organisations that would benefit from further targeted development work to secure and sustain future performance.

The external input is vital to safeguard against the optimism bias and group think to which even the best organisations may be susceptible. They therefore encourage all providers to carry out externally facilitated, developmental reviews of their leadership and governance using the well-led framework every three to five years, according to their circumstances.

Below we have aligned the well led key lines of enquiry (KLOE) with the new King IV principles.

NHS Key line of enquiry (KLOE)	cf	King IV principles
<p>1. Is there the leadership capacity and capability to deliver high quality, sustainable care?</p>		<ol style="list-style-type: none"> 1. The governing body should lead ethically and effectively. 2. The governing body should govern the ethics of the organisation in a way that supports the establishment of an ethical culture. 3. The governing body should ensure that the organisation is and is seen to be a responsible corporate citizen. 6. The governing body should serve as the focal point and custodian of corporate governance in the organisation. 7. The governing body should comprise the appropriate balance of knowledge, skills, experience, diversity and independence for it to discharge its governance role and responsibilities objectively and effectively

NHS Key line of enquiry (KLOE)	cf	King IV principles
<p>2. Is there a clear vision and credible strategy to deliver high quality sustainable care to people, and robust plans to deliver?</p>		<p>11. The governing body should govern risk in a way that supports the organisation in setting and achieving its strategic objectives</p> <p>12. The governing body should govern technology and information in a way that supports the organisation setting and achieving its strategic objectives</p> <p>14. The governing body should ensure that the organisation remunerates fairly, responsibly and transparently so as to promote the achievement of strategic objectives and positive outcomes in the short, medium and long term</p>
<p>3. Is there a culture of high quality, sustainable care?</p>		<p>4. The governing body should appreciate that the organisation’s core purpose, its risks and opportunities, strategy, business model, performance and sustainable development are all inseparable elements of the value creation process</p>
<p>4. Are there clear responsibilities, roles and systems of accountability to support good governance and management?</p>		<p>8. The governing body should ensure that its arrangements for delegation within its own structures promote independent judgement, and assist with balance of power and the effective discharge of its duties</p> <p>10. The governing body should ensure that the appointment of, and delegation to, management contribute to role clarity and the effective exercise of authority and responsibilities</p> <p>13. The governing body should govern compliance with applicable laws and adopted, non-binding rules, codes and standards in a way that supports the organisation being ethical and a good corporate citizen</p>
<p>5. Are there clear and effective processes for managing risks, issues and performance?</p>		<p>4. The governing body should appreciate that the organisation’s core purpose, its risks and opportunities, strategy, business model, performance and sustainable development are all inseparable elements of the value creation process.</p>
<p>6. Is appropriate and accurate information being effectively processed, challenged and acted on?</p>		<p>15. The governing body should ensure that assurance services and functions enable an effective control environment, and that these support the integrity of information for internal decision-making and of the organisation’s external reports.</p>

NHS Key line of enquiry (KLOE)	cf	King IV principles
7. Are the people who use services, the public, staff and external partners engaged and involved to support high quality sustainable services?		5. The governing body should ensure that reports issued by the organisation enable stakeholders to make informed assessments of the organisation's performance and its short, medium and long-term prospects. 16. In the execution of its governance roles and responsibilities, the governing body should adopt a stakeholder-inclusive approach that balances the needs, interests and expectations of material stakeholders in the best interests of the organisation over time
8. Are there robust systems and processes for learning, continuous improvement and innovation?		9. The governing body should ensure that the evaluation of its own performance and that of its committees, its chair and its individual members, support continued improvement in its performance and effectiveness.

Principle 17. The governing body of an institutional investor organisation should ensure that responsible investment is practiced by the organisation to promote good governance and the creation of value by the companies in which it invests (does not apply).

Practices

To balance the less prescriptive approach adopted in King IV, there is greater emphasis on transparency with regards to how judgement is exercised when considering the practice recommendations contained in King IV. Practices only indicate a recommended course of action but believe it is important to explain why a particular practice was or was not followed. To reinforce this qualitative application of its principles and practices, King IV proposes an "apply and explain" regime, in contrast to "apply or explain" in King III. Application of all the principles is therefore assumed and entities should explain the practices that have been implemented to give effect to each principle. Explanation should be provided in the form of a narrative account, with reference to practices that demonstrate application of the principle. The explanation should address which recommended or other practices have been implemented or not, and how these achieve or give effect to the principle.

For example Principle 11 (The governing body should govern risk in a way that supports the organisation in setting and achieving its strategic objective) is supported by a set of recommend practices including:

The governing body should evaluate and agree the nature and extent of the risks that the organisation should be willing to take in pursuit of its strategic objectives. It should approve in particular:

- a. the organisation's risk appetite, namely its propensity to take appropriate levels of risk; and
- b. the limit of the potential loss that the organisation has the capacity to tolerate. The governing body should delegate to management the responsibility to implement and execute effective risk management.

Delegation to management

The King IV Code provides for the governing body the ability to delegate the implementation and execution of approved strategy, through policy and operational plans, to management via the chief executive officer (CEO). Rather than dealing with the establishment of specific management positions for functional areas as was done in King III, the practices in the King IV Code contain recommendations for the governing body to oversee that key functional areas are headed by competent individuals and are adequately resourced.

Delegation to committees

King IV, like King III, deals with delegation by the governing body within its own structures. Principle 8 of King IV now clarifies the objectives for these delegation arrangements, which are to promote independent judgement; to assist with balance of power; and to assist with the effective discharge of its duties by the governing body.

In accordance with the drafting convention adopted for King IV, the recommended practices do not prescribe which committees should be established by the governing body – the governing body should judge what is appropriate for the organisation. The practices furthermore recommend that the allocation of roles and responsibilities, and the composition of committees, should be considered holistically. The aim here is to promote effective collaboration among committees with minimal overlap and fragmentation of duties, as well as a balanced distribution of power.

GGI recommend the application of an annual review of delegated responsibilities to management and committees in alignment with recalibrated risk appetite and tolerances.

How does King IV help with multi agency place based governance?

This section is based on written evidence submitted by the Good Governance Institute (GGI) to the Health Select Committee inquiry into Sustainability and Transformation Partnerships (STP).

GGI do not favour imposing a rigid structure for STPs but do recommend the urgent creation of a single set of guiding principles to allow governance to be established and mature. King IV offers a ready made set of guiding principles. The codes are non-legislative and are based on principles and practices. GGI have always favoured an apply and explain approach now incorporated in King IV which focuses on doing the right thing rather than rigid compliance. It requires Boards and practitioners to think.

King's promotion of the principle of integrated public reporting adding value to a set of social and economic capitals can include health and wellbeing, quality outcomes, well trained staff, innovation and productivity. The concept of adding value to key capitals provides a developmental route for the STP Progress Dashboard which is too static at present and needs more recognition of planned development over time with the ability to aim high, maybe fail, learn and reapply

Areas developing Accountable Care Systems (ACS) require different models of governance but the same principles will apply. To become an ACS, a local health and care system must show its partnership is advanced enough to make shared decisions, improve services for the public and manage resources collectively. GGI have found it helpful to distinguish between decision-making, the process of engagement, developing options and clarifying assumptions; and decision taking when the various partners actually confirm a decision. In governance terms this is when responsibility for an action becomes accountability for its outcome.

All of the new groupings will need a model based on population health that is defined as the health outcomes of a group of individuals, including the distribution of such outcomes within the group. STPs will need to develop effective frameworks to optimise outcomes through a golden thread of analysis, engagement, prioritisation, planning and delivery. Whilst STPs will have significant footprints, there will also be the need to understand flows and arrangements beyond their boundaries. STPs will need to recognise accountability for outcomes delivered by neighbours for their own resident populations. This will require agreements on sharing information and assurance of putting things right when they go wrong.

King IV makes this set of relationships explicit. The organisation must not be seen as an island, rather as a contributor to the broader society as creators of wealth; providers of goods, services and employment; contributors to the fiscus (national moneybag); and developers of human capital. This idea of interdependency between organisations and society is supported by the African concept of Ubuntu or Botho, captured by the expressions Umuntu ngumuntu ngabantu and Motho ke motho ka batho – I am because you are; you are because we are. Ubuntu and Botho imply that there should be a common purpose to all human endeavours (including corporate endeavours) which is based on service to humanity.

Partnerhsips & subsidiarity

Where King III included a separate principle in which a governance framework should have been agreed between the group Board and its subsidiary Boards, King IV deals with group governance differently in that it allocates responsibility for the implementation of a group governance framework to the holding company Board.

This helps us to tackle the thorny issues of the sovereignty of the Trust Board 'v' the branch factory mentality and also the complex relationships of partners in a joint decision taking sustainability and transformation partnership (STP) or integrated care development programme (ICDP).

What KING IV infers is a recognition that the NHS in England (or Wales, Scotland) de facto is like a group holding company enterprise like HSBC with a number of largely autonomous entities (i.e. listed on a stock exchange) which have their own Boards and accountability but there is a need for the holding company to be much more explicit on the group governance framework rather than the pretence of independence followed by intervention and control when things are going wrong. A source of confusion and mistrust for both provider and commissioning bodies.

As we know on being established as an NHS Foundation Trust, the Trust is required to comply with the conditions as set out in the NHS Provider Licence. The Licence, which replaced the former Terms of Authorisation for Foundation Trusts, is the main tool used by NHSI to regulate providers of NHS services. This is very one-sided and King makes it clear that the adoption and implementation of the policies, structures and procedures of the holding company is a matter for consideration and approval by the Board of the subsidiary company as a separate legal entity. The Board of the holding company should therefore ensure that the Boards of its subsidiaries are included in the development of the group governance framework.

The Board of the holding company should ensure that the group governance framework recognises each subsidiary within the group as a separate and independent juristic person to whom its directors owe fiduciary duties.

The Board of the holding company should ensure that the group governance framework addresses governance matters as is appropriate for the group, including the following:

1. Delineation of the rights and role of the holding company.
2. If applicable, delegation of certain responsibilities by the Board of a subsidiary to a Board committee of the holding company, without abdicating accountability, and subject to agreed reporting and information- sharing arrangements.
3. The extent to which governance and operational policies of the holding company have been adopted by subsidiary companies in the group.

This all suggests the need for a more mature and engaging process between NHS bodies and the 'centre'. This will be essential as new structures emerge for place based service delivery where there is no formal agreement for the non-NHS partners to be directed by the agencies of the Department of Health. The group governance framework should be formally approved and adopted by each subsidiary Board. As such, King IV confirms that directors owe their fiduciary duties to the entity where they serve as director – in short, the subsidiary Board needs to ensure that it acts in the best interest of the subsidiary when applying group policy. King IV suggests several matters which should be addressed in the group governance framework including the delineation of the rights and role of the entity and the extent of the adoption of governance and operational policies across the group.

In essence King is defining subsidiarity which is a principle of social organisation that holds that 'social and political issues should be dealt with at the most immediate (or local) level that is consistent with their resolution' thus helping us to create and clarify appropriate accountabilities at different levels. As the Good Governance handbook stated in 2105 'Establishing this principle will be essential when we move onto inter organisational assurance'. For more on this see the forthcoming GGI/360 publication on 'The new assurance.'

Stakeholders

King IV (like its predecessors) advocates a stakeholder-inclusive approach, in which the governing body takes account of the legitimate and reasonable needs, interests and expectations of all material stakeholders in the execution of its duties in the best interests of the organisation over time. By following this approach, instead of prioritising the interests of the providers of financial capital, the governing body gives parity to all sources of value creation, including among others, social and relationship capital as embodied by stakeholders.

The Board should ensure that it provides strategic direction and the necessary policy to enable proper management of the stakeholder relationships. The Board should oversee the effective management of stakeholder relationships that affect value creation and the achievement of the company's strategic objectives. The Board should exercise ongoing oversight of the management of stakeholder relationships, in particular, that it results in methodologies for identifying individual stakeholders and stakeholder groupings, determination of material stakeholders, management of stakeholder risk as an integral part of organisation-wide risk management, formal mechanisms for engagement and communication with stakeholders, including the use of dispute resolution mechanisms and associated processes, and measurement of the quality of material stakeholder relationships, and appropriately responding to the outcomes.

Sustainable development

Sustainable development, understood as "development that meets the needs of the present without compromising the ability of future generations to meet their needs", is a primary ethical and economic imperative. It is a fitting response to the organisation being an integral part of society, its status as a corporate citizen and its stakeholders' needs interests and expectations.

King & stakeholders

The more recent King Codes reject the enlightened shareholder approach to governance in favour of a 'stakeholder-inclusive' approach. The enlightened shareholder model and the stakeholder-inclusive model both take the view that the Board of directors should consider the interests and expectations of stakeholders other than shareholders; however, the two models differ significantly in their emphasis.

- In the 'enlightened shareholder' approach, the legitimate interests and expectations of stakeholders only have an instrumental value. Stakeholders are only considered in as far as it would be in the interests of shareholders to do so.
- In the case of the 'stakeholder-inclusive' approach, the Board of directors considers the legitimate interests and expectations of stakeholders on the basis that this is in the best interests of the organisation, and not merely as an instrument to serve the interests of the shareholder.

Conclusion

GGI endorse the adoption of KING IV as an underlying model of good governance. It has application to existing entities but with its clarity of purpose and outcomes the principles based approach provides legitimacy for multi agency place based collaborations to set direction with effective and ethical oversight, scrutiny and accountability.

Many will reject the approach because it is not required. We hope that even stretched organisations will see that the model provides a fresh start for collaboration between organisations, a mature relationship with policy makers and regulators and an inclusive genuine approach to stakeholder inclusion and public reporting.

GGI 2018



For a range of other GGI publications and resources, visit: <http://www.good-governance.org.uk/knowledge>

How population health management will deliver a sustainable NHS, February 2018

System Transformation – Board assurance prompt, August 2017

A simple guide to risk for members of Boards and governing bodies, July 2017

The governance of diversity and inclusion: Maturity Matrix, April 2017

GGI Board insights paper 2: the role of the Medical Director in the NHS, January 2017

*Joint committees and committees in common in CCGs: How to keep within the law
November 2016*

What is a deep dive?, July 2016

The new Integrated Governance Handbook 2016, October 2016

The Role of the Company Secretary in the NHS, July 2016

Risk Appetite for NHS Organisations: A Matrix to support better risk sensitivity in decision taking, January 2012

KING IV ON A PAGE

LEADERSHIP BY THE GOVERNING BODY

These are the governing body's primary governance role and responsibilities.

Steers and sets strategic direction

Approves policy and planning

Oversees and monitors

Ensures accountability

PRINCIPLES

Principles embody the aspirations of the Journey towards good corporate governance.

- Principle 1: The governing body should lead ethically and effectively.
- Principle 2: The governing body should govern the ethics of the organisation in a way that supports the establishment of an ethical culture.
- Principle 3: The governing body should ensure that the organisation is and is seen to be a responsible corporate citizen.
- Principle 4: The governing body should appreciate that the organisation's core purpose, its risks and opportunities, strategy, business model, performance and sustainable development are all inseparable elements of the value creation process.
- Principle 5: The governing body should ensure that reports issued by the organisation enable stakeholders to make informed assessments of the organisation's performance and its short, medium and long-term prospects.
- Principle 6: The governing body should serve as the focal point and custodian of corporate governance in the organisation.
- Principle 7: The governing body should comprise the appropriate balance of knowledge, skills, experience, diversity and independence for it to discharge its governance role and responsibilities objectively and effectively.
- Principle 8: The governing body should ensure that its arrangements for delegation within its own structures promote independent judgement, and assist with balance of power and the effective discharge of its duties.
- Principle 9: The governing body should ensure that the evaluation of its own performance and that of its committees, its chair and its individual members, support continued improvement in its performance and effectiveness.

PRINCIPLES

They guide on what organisations should strive to achieve by the application of governance practices

- Principle 10: The governing body should ensure that the appointment of, and delegation to, management contribute to role clarity and the effective exercise of authority and responsibilities.
- Principle 11: The governing body should govern risk in a way that supports the organisation in setting and achieving its strategic objectives.
- Principle 12: The governing body should govern technology and information in a way that supports the organisation setting and achieving its strategic objectives.
- Principle 13: The governing body should govern compliance with applicable laws and adopted, non-binding rules, codes and standards in a way that supports the organisation being ethical and a good corporate citizen.
- Principle 14: The governing body should ensure that the organisation remunerates fairly, responsibly and transparently so as to promote the achievement of strategic objectives and positive outcomes in the short, medium and long term.
- Principle 15: The governing body should ensure that assurance services and functions enable an effective control environment, and that these support the integrity of information for internal decision-making and of the organisation's external reports.
- Principle 16: In the execution of its governance role and responsibilities, the governing body should adopt a stakeholder-inclusive approach that balances the needs, interests and expectations of material stakeholders in the best interests of the organisation over time.
- Principle 17: The governing body of an institutional investor organisation should ensure that responsible investment is practiced by the organisation to promote the good governance and the creation of value by the companies in which it invests.

PRACTICES

Practices support and give effect to the principles.

GOVERNANCE OUTCOMES

These are the benefits that organisations could realise through good governance.

Ethical culture

Good performance

Effective control

Legitimacy