



King IV Commenting Platform

Filled Thursday, May 19, 2016

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Yes



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Personal Details Section:

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Prof

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Myself

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PART 1: Introduction and Foundational Concepts

PART 1: Introduction and Foundational Concepts

Add your comments for this part here:

Variable	Response
PART 1: Introduction and Foundational Concepts 1. Introduction	As a general point, it would have been useful for the changes from King III to have been specifically identified with an explanation or background provided. For example, the meaning of 'independence' has changed in a number of small but subtle ways (see p 42) and is



	would have been useful for the changes to have been stated, together with the thinking which led to those changes.
PART 1: Introduction and Foundational Concepts 2. Objectives of King IV	(No response)
PART 1: Introduction and Foundational Concepts 3. King IV definition of corporate governance	(No response)
PART 1: Introduction and Foundational Concepts 4. The underpinning philosophies of King IV	(No response)
PART 1: Introduction and Foundational Concepts 5. Local and international developments since King III	(No response)

PART 2: Content Elements and Development

PART 2: Content Elements and Development

Add your comments for this part here:

Variable	Response
PART 2: Content Elements and Development 1. Overview of the nine parts of the King IV Report	(No response)
PART 2: Content Elements and Development 2. King IV Code elements	(No response)
PART 2: Content Elements and Development 3. Sector Supplements	(No response)
PART 2: Content Elements and Development 4. Content development process	(No response)
PART 2: Content Elements and Development 5. Drafting convention	(No response)



PART 2: Content Elements and Development | 6. Presentation features of King IV

(No response)

PART 3: Application of King IV

PART 3: Application of King IV

Add your comments for this part here:

Variable	Response
PART 3: Application of King IV 1. Legal status of King IV	(No response)
PART 3: Application of King IV 2. Scope of application of King IV	(No response)
PART 3: Application of King IV 3. Proportionality – appropriate application and adaption of practices	(No response)
PART 3: Application of King IV 4. Disclosure on application of King IV	(No response)
PART 3: Application of King IV 5. Transition from King III to King IV	(No response)

PART 4: King IV on a page

PART 4: King IV on a page

Add your comments for this part here:

(No response)

PART 5, CHAPTER 1: Leadership, Ethics and Corporate Citizenship

PART 5 CHAPTER 1: Leadership, Ethics and Corporate Citizenship

Add your comments for this part here:

Variable	Response
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<p>PART 5CHAPTER 1: Leadership, Ethics and Corporate Citizenship 1.1 Ethical leadership</p>	<p>Principle 1.1. Not all of the items listed as a to f in Practice1 are necessarily ethical as stated in the opening sentence (notably ‘competence’, and arguably, ‘informed’). A further characteristic that could be added might be ‘participation’ or a better chosen word, in order to indicate that all members of the governing body should contribute as equally as practicable, to avoid a situation where the governing body is dominated by a small handful of persons. This would also indirectly speak into circumstances where an executive committee of the governing body becomes the de facto locus of power and decision-making (in my experience more prevalent in non-governmental organisations than in the larger corporates).</p>
<p>PART 5CHAPTER 1: Leadership, Ethics and Corporate Citizenship 1.2 Organisation values, ethics and culture</p>	<p>(No response)</p>
<p>PART 5CHAPTER 1: Leadership, Ethics and Corporate Citizenship 1.3 Responsible corporate citizenship</p>	<p>Principle 1.3. A useful starting point might be a commitment to the principles set out in the Constitution of South Africa.</p>

PART 5, CHAPTER 2: Performance and Reporting

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Add your comments for this part here:

Variable	Response
<p>PART 5CHAPTER 2: Performance and Reporting 2.1 Strategy, implementation, performance</p>	<p>Principle 2.1. Paragraph 5a may read better as ‘set using measures...’. The reference to business rescue (Practice 7) sits somewhat awkwardly here, as a very specific action to be taken under a particular set of circumstances. A solution might be first to widen the context by a general reference to the importance for governing bodies to be alert to the need to ensure the solvency and liquidity of the organisation as a going concern.</p>



PART 5 CHAPTER 2:
Performance and Reporting
| 2.2 Reports and disclosure

Principle 2.2 contains practices including a list of very extensive items to be dealt with in the integrated report (Practice 14). These have been derived from the IIRC’s principles which appear to have been drafted with large and well-resourced corporates in mind. Some of these items are very generalised and open-ended such as d, h and j. It is completely unrealistic to expect any but the largest organisations to deal adequately with all these items, yet the list is prefaced by the phrase ‘as a minimum’. Accordingly it is suggested that the phrase be replaced by ‘be guided by’, which is less demanding. The same mindset is apparent in Practice 16 in referring to ‘ongoing’ disclosure – for many organisations, material information is likely to be intermittent if not infrequent. The point surely is that information should be disclosed timeously, and to all relevant stakeholders, so it is suggested that Practice 16 be amended accordingly.

PART 5, CHAPTER 3: Governing Structures and Delegation

PART 5 CHAPTER 3: Governing Structures and Delegation

Add your comments for this part here:

Variable	Response
PART 5 CHAPTER 3: Governing Structures and Delegation 3.1 Role of the governing body	Principle 3.1 - the creation of other governing structures is understandable (Practice 3 c), but potentially hazardous as seems implied by the reference to accountability. It is suggested that this be re-enforced by referring to responsibility as well.
PART 5 CHAPTER 3: Governing Structures and Delegation 3.2 Composition of the governing body	Principle 3.2 is followed by a practice as to the composition of the governing body relating to diversity which includes nationality. This may sound sensible for multi-national organisations, but it is suggested that the remaining characteristics deal with what is needed for an effective governing body adequately, and that the addition of what is little more than a label introduces a further degree of complexity. Meeting this diversity could lead to a governing body that is unmanageable in size; some reference could be made to this factor under Practice 9, where the listed factors a-g point towards a very large governing body. This is liable to dilute the ability of individual members to contribute meaningfully. The various indicators of independence represent a more searching approach than in King III, which is to be welcomed. With regard to Practice 27a, which deals simply with a (direct) shareholding, it is suggested that the



PART 5 CHAPTER 3:
Governing Structures and
Delegation | 3.3
Committees of the
governing body

wording be expanded to cater for financial interests more generally so as to include loans, and to allow for indirect shareholdings. Note that under Practice 35, the chair could end up chairing the risk committee, the governance committee and the S & E committee, as well as the governing body and, with shareholder consent, the audit committee. This seems too much - a cap on the number of committees that he or she can chair should be considered. (Note that this is indirectly catered for at Practice 41b; nevertheless an explicit statement in relation to the position of the chairman is desirable).

PART 5 CHAPTER 3:
Governing Structures and
Delegation | 3.4
Delegation to
management

Principle 3.3. The functions of the nomination committee extend well beyond the nomination of members of the governing body (Practice 59) and the name should reflect this, perhaps best as 'Nominations and governance committee'. The issue of disclosure merits some further consideration. Apart from the common disclosures of Practice 49, there are very explicit disclosures required of the audit committee (Practice 58), yet nothing specific is required of the other statutory committee (the S & E committee), nor of other committees. It may be too much detail to set out recommended disclosures for all the committees, but it could be helpful to give some guidance for the S & E committee. In particular and in view of the emphasis placed on ethics, there should be disclosure in this area (at present there is only a rather vague requirement under Principle 1.1, which is confined to governance matters only).

Principle 3.4. Practice 80, as to the governing body being consulted on executive appointments, but with approval resting with the CEO, raises an interesting question – what if the CEO makes an appointment that contradicts the board's views? Possibly the authority of the chairman should be required. More importantly, nothing is said as to the terms of appointment of the CEO and executive management. Governing bodies should be cautioned against appointments with long notice periods or other conditions which could cause the removal of the CEO or other executives to be costly to the organisation. Disclosure of the powers that the governing body has reserved for itself is of limited value (Practice 85); ultimately responsibility sits with the governing body.

PART 5 CHAPTER 3:
Governing Structures and
Delegation | 3.5
Performance evaluations

(No response)



PART 5, CHAPTER 4: Governance Functional Areas

PART 5 CHAPTER 4: Governance Functional Areas

Add your comments for this part here:

Variable	Response
PART 5 CHAPTER 4: Governance Functional Areas 4.1 Risk and opportunity governance	Principle 4.1. Nothing is said as to the appointment of a suitably qualified and experienced person to manage risk; usually this person focuses on risks rather than opportunities, and in some cases the responsibility for risk management may be simply part of a broader job description. There are therefore grounds for extending this section somewhat. The disclosure of the extent of risks and opportunities is unrealistic as it will almost certainly be impossible to quantify. As a minor point, use of the present tense ('are') does not fit well grammatically with references to the past, present and future (Practice 11d; see also 19e).
PART 5 CHAPTER 4: Governance Functional Areas 4.2 Technology and information governance	Principle 4.2. It may prove difficult to assess return on investment in technology and information systems, but at the least there should be a careful post-implementation audit of the actual delivery provided by such investment against what may have been promised (Practice 16e).
PART 5 CHAPTER 4: Governance Functional Areas 4.3 Compliance governance	(No response)
PART 5 CHAPTER 4: Governance Functional Areas 4.4 Remuneration governance	Principle 4.4 relating to remuneration probably represents the most contentious area of corporate governance. In general, South Africa seems to have set the pace globally in corporate governance in the King II and III reports, but we seem to have lost the lead in relation to executive remuneration. The recommended practices with regard to voting are feeble. While one accepts that in law the directors are not subject to the directions of shareholders in general meeting, this issue is so contentious that it needs to be dealt with more vigorously (it must be said, though, that the involvement of the S & E committee is a plus). The South African context needs to be stressed. Since the last King Report, the economy has struggled, corruption has grown markedly, civil unrest and protests have escalated (both in terms of service delivery and amongst university students) and labour relations, post-Marikana, are far from satisfactory. National government has lost credibility,



PART 5 CHAPTER 4:
Governance Functional
Areas | 4.5 Assurance

unemployment is acute and poverty rife. In such an environment, the continuance of the status quo and the capitalist system with which it is associated is brought into question. It is submitted that, unlike developed nations, the sustainability of the present economic system in South Africa is not assured. Remuneration of executives at levels which appear obscene and morally reprehensible aggravates disaffection with the system; even though such remuneration may be a small portion of profits. It would be foolish to disregard this. This is a complex issue; it is suggested that more research be conducted to determine recommendations based on a sensible global best practice which allow for South African conditions and which will ensure an adequate response by the corporate sector to the challenges of our present circumstances. I do not feel able to provide comprehensive proposals in this respect; however one modest suggestion is that it should be required of the chairpersons of both the remuneration and S & E committees to attend the AGM and answer questions as to how they have discharged their mandates (Practice 12 in Chapter 5 “Stakeholder relationships” is insufficient in this respect).

Principle 4.5. While the notion that a governing body should be concerned with opportunities as well as risks is sound, it is submitted that the role of the audit committee is largely protective. Thus the inclusion of references to opportunities under Practices 48 – 50, 58 and 59 is not appropriate (nor is it compatible with the role of the audit committee set out under Principle 3.3). The focus of this principle is on obtaining assurance, not on seeking out business opportunities, and the focus of the audit committee should not be diluted by giving it this responsibility.

PART 5, CHAPTER 5: Stakeholder Relationships

PART 5 CHAPTER 5: Stakeholder Relationships

Add your comments for this part here:

Variable	Response
PART 5 CHAPTER 5: Stakeholder Relationships 5.1 Stakeholders	Principle 5.1. In the case of companies, the board needs to be strongly cautioned against giving any form of preference to a particular class of shareholder, specifically institutional investors (see Practice 14). It is also suggested that companies be encouraged to manage the agenda for the AGM creatively, so that the meeting is more than a matter of statutory



PART 5 CHAPTER 5:
Stakeholder Relationships
| 5.2 Responsibilities of
shareholders

compliance. Care should be taken to explain the background to, and reasons for resolutions to be proposed at the meeting.

Principle 5.2. Practice 22 is unclear ('should disclosure'). It is desirable that institutional investors disclose comprehensively on their websites how they have voted on resolutions of the companies in which they are invested.

PART 6: Sector Supplements

PART 6: Sector Supplements

Content on Part 6: Sector Supplements will be published and opened for commentary during May 2016.

PART 7: Application Register

PART 7: Application Register

Commentary on Part 7: Application register will be addressed in the Comment Questions section, Question 10.

PART 8: Glossary of Terms

PART 8: Glossary of Terms

Add your comments for this part here:

(No response)

Comment Questions (1-5)

Comment Questions Question 1 - Question 5

Question 1

The set objectives of the King IV Report are to: -promote good corporate governance as integral to running an enterprise and delivering benefits to it; broaden the acceptance of good corporate



governance by making it accessible and fit for application by organisations of a variety of sizes, resources and complexity of strategic objectives and operations; reinforce good corporate governance as a holistic and inter-related set of arrangements to be understood and implemented in an integrated manner; and present good corporate governance as concerned with not only structure, policy and process but also an ethical consciousness and behaviour. To what extent would the draft King IV Report as it stands achieve each of these objectives? Please comment on how this could be optimised.

(No response)

Question 2

Part 2 of the draft King IV Report: Content Elements and Development, deals with outcomes, principles and practices. Clear differentiation of these content elements is key to reinforcing qualitative governance which is outcomes driven rather than about mindless compliance. Is the rationale and the difference between these content elements clearly explained? Please provide suggestions on how this could be further enhanced.

(No response)

Question 3

King IV uses the broader form of address namely: 'organisations'; 'governing body'; and 'those charged with governance duties'. Does this make the King IV Report more broadly relevant to all organisations and sectors?

(No response)

Question 4

The King IV Code recommends that as a minimum, the chief executive officer (CEO) and one other executive should be appointed to the governing body. Other than in King III, it does not specifically recommend the inclusion of the chief financial officer (CFO) as a member of the governing body. This allows flexibility for another executive to be appointed as a member of the board, depending on the nature and needs of the business. Would a recommendation specifically providing for inclusion of the CFO be more appropriate or is flexibility preferable in light thereof that organisations differ?

(No response)



Question 5

Do the independence criteria in Chapter 3 of the Code provide clear and useful guidance for assessment of independence on a substance over form basis?

(No response)

Comment Questions (6-10)

Comment Questions Question 6 - Question 10

Question 6

Will the new disclosure and voting requirements on remuneration in Chapter 4 of the Code lead to increased transparency and more meaningful engagement on remuneration between organisations and their stakeholders? Please provide suggestions for further enhancement.

(No response)

Question 7

King IV introduces in Chapter 4 of the Code, the 5 lines on assurance in the place of the traditional 3 lines of defence. It also expands on the implementation of the combined assurance model. Will this assist with more effective co-ordination and alignment of assurance? Please provide suggestions for further enhancement.

(No response)

Question 8

The governing body as the focal point of corporate governance and is therefore the primary audience of the King IV Report. King IV requires the governing body of an institutional investor to ensure that the organisation exercises its rights as holders of beneficial interest in companies, responsibly. Does this principle establish the necessary linkage between King IV and the Code for Responsible Investing in South Africa (CRISA) so that governance is reinforced by all role players? How can King IV further reinforce responsible investing practices? (For access to CRISA go to www.iodsa.co.za.)

(No response)



Question 9

King IV introduces 'risk and opportunity' governance to emphasise risk as being about uncertainty and the effect of it occurring or not occurring having a possible negative or positive effect on the organisation achieving its objectives. Is it useful to refer to risk and opportunity governance and will it reinforce it as a value-add rather than conformance exercise?

(No response)

Question 10

The application regime of King IV is 'apply and explain' as opposed to 'apply or explain' in King III. The main difference between the application regime of King III and King IV is that application of the principles is assumed in King IV as they are basic to good corporate governance. Furthermore, the 75 principles in King III have been replaced with 17 principles in King IV. For the 'apply and explain' regime, explanation is required in the form of a high level narrative of the practices that have been implemented and the progress made in the journey towards giving effect to each principle. Will 'apply and explain' encourage greater transparency and qualitative? Should disclosure on King IV application be required to be signed off by the governing body? (For further information on the application regime refer to Part 3: Application of King IV and to Part 7 for a template of the application register.)

(No response)

Survey Questions

Survey Questions

How much do you agree or disagree with the following statements, please give a reason for your answer.

You may need to scroll to the right to see all the options, depending on the size of the screen you are using.

	Why do you say that?	
The King IV document is easy to understand	Agree	(No response)
The document meets the King IV objectives	Strongly agree	(No response)



King IV is an improvement on King III

Agree

(No response)

END

Have you added all the comments you would like to add? If not please click on the section you would like to add comments to. Once you have done this you may return to this page and submit your comments.