



**Business & Computing Examinations (BCE)**

**LONDON (UK)**

**BCE Governance Constitution**

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## *Preface*

BCE Corporate Governance refers to the processes and structure by which the business and affairs of the organisation are directed and managed, in order to enhance corporate performance and accountability, whilst taking into account the interests of other stakeholders. Good corporate governance therefore embodies both enterprise (performance) and accountability (conformance). Good corporate governance matters; as research shows corporate governance standards in well governed organisations pay comparably in financial performance terms than for those of poorly managed.

BCE needs to continuously improve its standard of corporate governance, to provide a climate conducive to the orderly development of qualifications and assessment to meet the increasing expectations of Centres, learners and other stakeholders.

We must take upon ourselves the responsibility for adopting governance practices best suited to our circumstances, built around sound principles. The principles and guidelines in this document are not meant to unduly restrict our corporate governance policies and practices.

The constitution is divided into three main sections:

- Board of Advisors' Matters
- Evaluations
- Communication

This constitution follows the overall legal and regulatory framework of UK/EU legislation. BCE will ensure compliance with the General Conditions of Recognition and Regulatory arrangements for the Qualifications Framework; with the CEO as Accountable Officer.

Compliance also extends to:

- Company Law
- Consumer Protection
- Data Protection and Freedom of Information
- Equality and Diversity
- Freedom of Speech
- Healthy and Safety in the Workplace

## **1. Board of Advisors' Matters**

Board of Advisors (BCE Governing Body) practices are at least as important as financial issues. Indeed, there is no substitute for having oversight practices; ensuring the integrity of appointed members. Without integrity, BCE may not be able to meet prescribed rules and frustrate the intent of governance purpose. Meeting the form but not the substance of the organisational constitution would not lead to improved governance.

Other than charting BCE strategy, the Board of Advisors are chiefly responsible for oversight (monitoring managerial performance), while preventing conflicts of interest and balancing competing demands. Our governance constitution guidelines assert that the Board of Advisors should explicitly assume responsibility for the stewardship of the organisation and the emphasis that governing body responsibilities are distinct from management responsibilities.

The Board of Advisors' Chairperson's role in securing good corporate governance by providing that link between Management and Governing Body is crucial. To provide some guidance, Corporate Governance sets out some examples of the role and responsibilities of the chairperson. On the other hand, the Chief Executive Officer (CEO), representing management, shall have the general executive responsibility for the conduct of the business and affairs of BCE. In carrying out organisational duties, the CEO would work closely with the governing body to implement BCE policies and to realise a common vision for the organisation.

Recommendations on remuneration matters will be the responsibility of CEO and Board of Advisors Chairperson and will facilitate appropriateness, transparency and accountability. There should be a formal and transparent procedure for fixing the remuneration packages of members, with the Chairperson getting extra payment for the work they do. No member should be involved in deciding own remuneration.

### **1.1 BCE Board of Advisors Articles of Governance**

The Articles of Governance highlights the division of responsibilities between BCE Board of Advisors (governing body) and the CEO as stated in BCE Corporate Governance section of Management Handbook. The aim is to help Board of Advisors and CEO to work together as effectively as possible, without duplication of effort. The Board of Advisors Articles of Governance does not identify new duties, but clarify that their role is mainly oversight, and that they should act as a "critical friend" to the CEO.

BCE Board of Advisors acts as a corporate body and they must also act with integrity, objectivity, honesty and in the best interests of BCE. They must be open about and prepared to explain, their decisions and actions.

BCE Board of Advisors are to carry out their functions with the aim of taking a largely oversight role in the running BCE. This includes oversight on BCE strategic framework, aims and objectives, policies and targets for achieving the objectives, and reviewing the strategic framework in the light of progress.

The CEO is responsible for the internal organisation, day-to-day management and control of BCE and for implementing BCE's strategic framework. The CEO formulates aims and

objectives, policies and targets for BCE and reports to the governing body on progress at least once every year and whenever need arise.

Where the governing body may delegate any function to CEO, the Articles of Governance give them power to give the CEO reasonable directions in relation to that function, and oblige the CEO to comply with those directions. This makes it explicit that in delegating a function, the governing body can prescribe how that function should be undertaken.

Though the CEO is responsible for preparing BCE Policy Framework, the governing body must consider, agree, monitor and review its implementation.

The governing body is also responsible for establishing a performance management appraisal by completing the Board of Advisors Self Assessment annually.

### **How does BCE governing body fulfil its oversight role?**

- Monitoring and reviewing aims, objectives, and whether the policies, targets and priorities are being achieved.
- Following and abiding by the Terms of Reference for the Board of Advisors.

### **Securing accountability and working in partnership**

- The CEO and Line Managers are accountable to the governing body for BCE's performance. The governing body must be prepared to explain its decisions and actions to anyone who has a legitimate interest. This may include staff, Centres, and other stakeholders.
- Ideally, the governing body and CEO should work together in partnership to develop key policies. The CEO should involve governing body at an early stage when formulating policies.

### **How does the governing body act as a "critical friend" to the CEO?**

- A critical friend offers support, constructive advice, a sounding board for ideas, a second opinion on proposals and help where needed. But a critical friend may also challenge, ask questions, seek information, improve proposals and seek to arrive at the best solution.

### **Delegation by the governing body**

- Though the legislation places a great many statutory duties on governing body, BCE Board of Advisors will delegate the role of Responsible Officer to the CEO; thereby liaising with Regulator Agencies.

### **Roles and responsibilities of governing body and CEO**

- The Corporate Governance section of the Management Handbook clearly specifies the Terms of Reference and Responsibilities for each position identified on BCE organisational chart.

### **In practice, who should take which decisions?**

- Even though the BCE policy framework illustrates who does what and when, BCE governing body must abide by the principles described in this document.

### ***Other Responsibilities***

The Board of Advisors should be coalesced on:

- Implementation and maintenance of conditions of recognition
- change control;
- latest CEO succession update;
- unforeseen circumstances or emergencies i.e. BCE is named as a party in any criminal or civil proceedings or is subjected to a regulatory investigation or sanctions by any professional, regulatory or government body or a Senior Officer is a party to criminal proceedings;

as lack of preparation in these issues would open the door to unfair scrutiny and criticism.

Though BCE is a family business, CEO succession all too often becomes at best an exercise in damage control and at worst an unseemly scramble that can hurt the organisation and destroy market value; hence the governing body should receive regular succession plans from the CEO. Stakeholders dislike uncertainty, and organisations that do not adequately plan for CEO succession leave themselves open to instability, internal politics, rumours, and the potential loss of business.

A smooth transition is essential to maintain the confidence of Centres, business partners, customers and employees, and provides the incoming CEO with a solid platform from which to move the organisation forward. A properly designed and executed contingency plan is at the centre of any successful transition.

Since unforeseen, unexpected and unwelcome events can be planned or unplanned; in either scenario, by the time a contingency plan is needed, it is far too late to start building one. Because of this, it is the responsibility of the governing body to make contingency planning a priority, even in the face of more immediate and tangible issues. In addition to being necessary for risk mitigation, succession planning brings with it several beneficial by-products:

- It provides a framework that drives senior executive development, aligning leadership at the top of the enterprise with the strategic needs of the firm.
- It gives the CEO, through an ongoing analysis of the job requirements, the opportunity to adjust their role in light of changing business conditions and strategic imperatives.
- It strengthens the relationship and information flow between the Board of Advisors and CEO as *understandably for everybody, bringing up the succession can feel awkward when things are going well.*

### **1.1.1 Board of Advisors Conduct of Its Affairs**

#### *Principle:*

BCE is headed by an effective governing body (Board of Advisors) to lead and control the organisation.

#### *Guidance Notes:*

1.1.1.1 The Board of Advisors should meet at least once a year and as warranted by particular circumstances, deemed appropriate. The number of Board of Advisors' meetings held in a year, as well as the attendance of every member at those meetings should be disclosed in BCE's Annual Board Meeting Report.

1.1.1.2 BCE should adopt internal guidelines setting forth matters that require Board of Advisors approval, and specify in the corporate governance disclosures the

type of material transactions that require governing body approval under such guidelines.

1.1.1.3 Every Board of Advisor member should receive appropriate training (including his or her duties and how to discharge those duties) when first appointed to the role of Board of Advisor. This should include an orientation-training programme to ensure that incoming members are familiar with the organisation's business and governance practices. It is equally important that members should receive further training, particularly on relevant new laws, regulations and changing corporate and commercial risks, from time to time.

## **1.2 Board of Advisors Composition and Balance**

### *Principle:*

There should be a strong and independent element on the BCE governing body, which is able to exercise objective judgement on corporate affairs independently, in particular, from Management. No individual or small group of individuals should be allowed to dominate the governing body's decision making.

### *Guidance Notes:*

1.2.1 There should be a strong and independent element on the governing body, with independent members making up at least three quarters of the governing body. An "independent" member is one who has no relationship with the CEO or personnel that could interfere, or be reasonably perceived to interfere, with the exercise of the members' independent business judgement with a view to the best interests of the organisation. Examples of such relationships, which would deem a member not to be independent, include:

- a) being employed by the organisation or any of its related companies for the current or any of the past three financial years;
- b) an immediate family member who is, or has been associated with the organisation in any of the past three financial years;

1.2.2 The relationships set out above are not intended to be exhaustive, and are examples of situations which would deem a member to be not independent. If the governing body wishes in spite of the existence of one or more of these relationships, to consider the member as independent, it should disclose in full the nature of the member relationship and bear responsibility for explaining why they should be considered independent.

1.2.3 The governing body should examine its size and, with a view to determining the impact of the number upon effectiveness, decide on what it considers an appropriate size for the governing body, which facilitates effective decision making. The governing body should take into account the scope and nature of the operations of BCE.

1.2.4 The governing body should comprise members who as a group provide core competencies such as accounting or finance, business or management experience, industry knowledge, strategic planning experience and customer-based experience or knowledge.

### **1.3 Board of Advisors Chairperson**

#### *Principle:*

There should be a clear division of responsibilities at the top of the organisation; the workings of the Board of Advisors and the executive responsibility of BCE's business – which will ensure a balance of power and authority, such that no one individual represents a considerable concentration of power.

#### *Guidance Notes:*

1.3.1 The roles of Chairperson and Chief Executive Officer (CEO) should in principle be separate, to ensure an appropriate balance of power, increased accountability and greater capacity of the governing body for independent decision making.

1.3.2 The Chairperson should:

- a) schedule meetings that enable the governing body to perform its duties responsibly while not interfering with the flow of BCE's operations;
- b) prepare meeting agenda in consultation with the CEO;
- c) exercise control over quality, quantity and timeliness of the flow of information between Management and the Governing Body; and
- d) assist in ensuring compliance with organisation's guidelines on corporate governance.

1.3.3 The responsibilities set out in the above guidelines pertain only to the Chairperson's role in respect of governing body proceedings. It should not be taken as a comprehensive list of all the duties and responsibilities of a Chairperson.

### **1.4 Board of Advisors Membership**

#### *Principle:*

There should be a formal and transparent process for the appointment of new members to the governing body. As a principle of good corporate governance, all members have a 5 year term, with an option to renew. Members who intend or made to resign before the end of their tenure should follow procedures in the contract.

#### *Guidance Notes:*

1.4.1 The CEO makes recommendations on all governing body appointments. The Board of Advisors should have written terms of reference that describes the responsibilities of its members, and its membership is disclosed annually.

1.4.2 The Board of Advisors are charged with the responsibility of nominating a Chairperson each year.

1.4.3 Members must ensure that sufficient time and attention is given to the affairs of BCE. The Chairperson should decide whether or not a member is able to and has been adequately carrying out his/her duties as Board of Advisor member. Internal guidelines should be adopted that address BCE time commitments.

1.4.4 Key information regarding members, such as academic and professional qualifications, date of first appointment as a Board of Advisor member, date of last meeting as member, both present and those held over the preceding five years should be disclosed in the Annual Board Meeting Report. In addition, the organisation's

annual disclosure on corporate governance should indicate which member is Executive, Chairperson, Independent and Non-independent.

## **1.5 Governing Body Performance**

### *Principle:*

There should be a formal assessment of the effectiveness of the Board of Advisors as a whole and the contribution by each member to the effectiveness of the governing body.

### *Guidance Notes:*

1.5.1 The Chairperson should decide how the governing body's performance may be evaluated and propose objective performance criteria besides completing the Board of Advisors' Self Assessment. Such performance criteria, that allow comparison with its industry peers, should be approved by all Board of Advisor members. These performance criteria should not be changed from year to year, and where circumstances deem it necessary for any of the criteria to be changed, the onus should be on the governing body to justify this decision.

1.5.2 Every member should implement a process for assessing the effectiveness of the Board of Advisors' as a whole and for assessing the contribution by each individual member to the effectiveness of the governing body. This assessment process should be disclosed annually.

## **1.6 Access to Information**

### *Principle:*

In order to fulfil their responsibilities, members should be provided with complete, adequate and timely information prior to governing body meetings on an ongoing basis.

### *Guidance Notes:*

1.6.1 The CEO has an obligation to supply the Board of Advisors with complete, adequate information in a timely manner. Reliance purely on what is volunteered by Management is unlikely to be enough in all circumstances and further enquiries may be required by Board of Advisor members if the CEO is to fulfil organisational duties properly. The governing body should also have separate and independent access to the organisation's senior personnel [line managers].

1.6.2 Information provided should include background or explanatory data analysis relating to matters to be brought before the Board of Advisors, copies of disclosure documents, compliance, internal control, BCE Approved Centres, budgets, forecasts and monthly internal financial statements. In respect of budgets, any material variance between the projections and actual results should also be disclosed and explained.

## **1.7 Accountability**

### *Principle:*

The Board of Advisors are accountable to the regulators and to a certain extent, the entire organisation.

### *Guidance Notes:*

1.7.1 The Board of Advisors should meet and provide regulator requirement. It should assure its self that members have appropriate skills and experience to oversee performance across the organisation.

1.7.2 The Board of Advisors should understand their function in ensuring the organisation's capability to comply with regulator conditions.

1.7.3 The Board of Advisors should provide the CEO with a balanced and understandable assessment of BCE's performance, position and prospects on an annual basis. This responsibility extends to interim and reports to regulators (if required).

1.7.4 The CEO should provide Board of Advisors with a balanced and understandable management accounts of the organisation's performance, position and prospects.

## 1.8 Internal Controls and Audit

### *Principle:*

The governing body should ensure that Management maintains a sound system of internal controls to safeguard BCE investments and assets. BCE should establish an audit function that is independent of the activities it audits.

### *Guidance Notes:*

1.8.1 The Board of Advisors should ensure that a review of the effectiveness of BCE's material internal controls, including financial, operational and compliance controls, and risk management, is conducted at least annually. Such review can be carried out by an independent auditor.

1.8.2 The Board of Advisors should comment on the adequacy of the internal controls in the BCE's Annual Board Meeting Report.

1.8.3 The auditor's primary line of reporting should be to the Chairperson of the Board of Advisors although the Auditor would also report administratively to the CEO.

1.8.4 The auditor should meet or exceed the standards set by nationally or internationally recognised professional bodies.

1.8.5 The Board of Advisors should meet with the auditor(s) at least annually. For the avoidance of doubt, the audit function can either be in-house, outsourced reputable individual or firm.

1.8.6 The Board of Advisors should, at least annually, ensure the adequacy of the internal control function.

## 1.9 Governing Body Code of Conduct

- a) **The Board of Advisors Chairperson ensures** that members are consulted before setting annual meeting dates; hence missing *three* consecutive sessions automatically signifies retirement.
- b) **Members will automatically** be forced to resign if any of the following misconduct is identified:
  - i) Activities that fall outside BCE purposes (self-dealing).
  - ii) Not acting as guardian of the organisation's assets.
  - iii) Not submitting genuine expense receipts.
  - iv) Misusing of BCE funds or resources.

- v) Misrepresentation or fraud.
  - vi) Breach/abuse of power.
  - vii) Breach of fiduciary duty.
  - viii) Hostility or lack of cooperation with other members.
  - ix) Failing or refusing to act.
  - x) Disobeying BCE's decision-making process.
- c) **Members who collude or lobby** for unethical activities will be removed [forced to step down].
  - d) **Members who become insolvent** or unfit to administer their oversight responsibilities will be removed.
  - e) **Equality and diversity** – Members' behaviour and attitudes should be consistent with the values of BCE.
  - f) **Respect** – Members must treat each other and members of the community with respect and courtesy.
  - g) **Commitment** - Members must devote sufficient time preparing for and attending meetings; and ensure they add value.
  - h) **Members** must not benefit from their positions beyond what is in the interests of BCE.
  - i) **Members** must be open, responsive and accountable to each other and stakeholders about their decisions and actions.
  - j) **Members** must keep and respect the status of confidential and discussion information they are likely to come across in executing their duties.
  - k) **No one Board of Advisors Member** acting alone will be allowed to make decisions that are in the interest of the entire organisation.
  - l) **Integrity** - Members must use their knowledge, expertise and experience in the interest of BCE.
  - m) **Members** must not impair the administration of BCE for selfish reasons.

### **Casus Omissus**

In the event of any casus omissus being found in this Constitution, or in the event of any issue arising as to the meaning of any particular part of this Constitution, the Board of Advisors shall act as they deem proper.

## 2. **Evaluations**

The Board of Advisors will meet at least once a year; December. BCE emphasis is on the importance of the independent audit of BCE operations. It subscribes to the view that the person responsible for annual evaluation be an independent person who reports directly to the Board of Advisors and where necessary, meeting with the Board of Advisors without the presence of BCE Management.

BCE emphasises the importance of the audit function being independent of the Management as this is one of the principal means by which the Responsible Person is able to carry out his/her duties effectively.

BCE emphasises the importance of CEO's responsibility in maintaining a sound system of internal controls, and the governing body's oversight responsibility to ensure that this is done. Whilst the governing body collectively shares this responsibility, BCE emphasises that it is the CEO's specific role to ensure that an annual review of all material controls is conducted.

BCE subscribes to the view that all personnel should be appropriately qualified, as this will enhance the confidence in dealing with Management, as well as with both the external and the internal audits. In this respect, BCE recommends that at least one Board of Advisor member should have an accounting or related financial management expertise; including another member with Educational compliance knowledge. The same applies to the audit of BCE operations; the Responsible Person should have an understanding of UK educational compliance/regulatory process. BCE feels that the requirement for at least two members to have the requisite expertise or experience would strengthen the objectivity of our goals and enhance the effectiveness of meetings with auditors.

BCE also subscribes to the view that the auditor should be adequately qualified and accorded appropriate standing and authority to enable them to gain access to information from the senior members of the management team.

### 3. **Communication**

The principles and guidance notes in this section seek to encourage BCE to engage in more effective communication with stakeholders. The manner and frequency with which information is disseminated to stakeholders is clearly a key factor in influencing decisions.

The Annual Review often is the main opportunity for BCE to be fully briefed on Approved Centre activities and to question Management on both operational and governance matters. Stakeholders have the right to participate in, and to be sufficiently informed on major corporate developments. BCE should be encouraged to welcome the views and inputs of stakeholders, and to address concerns. Additionally, in disclosing information, BCE should be as descriptive, detailed and forthcoming as possible, and avoid meaningless boilerplate statements.

BCE is mindful of the risk that close contact between personnel and BCE stakeholders might lead to different organisations receiving different information. In particular, unpublished sensitive information may often be disclosed at professionals' briefings or private conversations with major players. BCE therefore subscribes to the view that all stakeholders; whether small or large; should be entitled to the same level of communication and disclosure. Furthermore, principles of Corporate Governance states that processes and procedures for stakeholder meetings should allow for equitable treatment of all stakeholders. Such an equitable and equal treatment should be extended to the issue of disclosure. BCE feels that in the event were information has unintentionally or inadvertently been disclosed to a select group of Approved Centres, it should be required to make the same disclosure to all other Approved Centres. This could be done by way of press release, an announcement on BCE website or other comparable means.

BCE notes that the default requirements in the Companies Act is that voting must be made by physical attendance.

4. **Future of the BCE Constitution**

Needless to say the Constitution will continue to evolve over time, to maintain its relevance and applicability with the changing corporate landscape.

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