

6 May 2024

Elizabeth Johnstone
Chair
ASX Corporate Governance Council

Dear Elizabeth,

Corporate Governance Principles and Recommendations 5th Edition consultation

About ACSI

Established in 2001, ACSI exists to provide a strong voice on financially material environmental, social and governance (ESG) issues. Our members are Australian and international asset owners and institutional investors with over AU\$1 trillion in funds under management.

Through research, engagement, advocacy and voting recommendations, ACSI supports members in managing ESG investment risk and exercising active ownership to strengthen investment outcomes. Active ownership, including the management of climate-related risk, allows institutional investors to enhance the long-term value of retirement savings entrusted to them to manage.

Summary of ACSI's position

ACSI has long supported the ASX Corporate Governance Council (the Council) and its Principles and Recommendations. We support the 'if not, why not' approach to governance, recognising that the Principles provide a suitable balance of guidance to the market, while also allowing entities to take an approach that is appropriate to their business. We also support the provision of commentary to assist organisations understanding the different approaches across the market, without mandating one particular approach. ACSI recognises the role of the Principles and Recommendations in promoting transparency and governance practices which is important to supporting Australia's position as an attractive destination for investment. It is therefore essential that the Principles and Recommendations continue to evolve consistent with contemporary views on better practice. ACSI supports the draft overall, however, we also view some of the proposals to remove certain recommendations as premature, given the level of reporting and understanding in the market. There is also opportunity to strengthen some areas. Our comments on key areas are included below. We have also provided a response to each consultation question in appendix A.

Director skills

ACSI supports the changes proposed to Principle 2 and Recommendation 2.2a and b. Appropriate disclosure of director skills and experience is crucial for investor insight into the board's ability to govern the entity effectively. The proposed changes would give investors further insight into how directors' skills and experience are assessed and indicate whether the board is satisfied it has the right composition. Such disclosures would also support investor confidence in the nomination process.

In addition, we consider that the importance of succession planning (including contingency planning) could be more strongly drawn out, in particular for the board chair and board committees chairs e.g. audit committee chair. There should be sufficient overlap in director, board chair and committee chair succession so that gaps in skills, experience, subject matter expertise or corporate memory do not occur. Boards should also consider contingency plans to address unforeseen turnover or absence. This is a critical board responsibility and accordingly could be addressed in the commentary to Recommendation 1.1.

Gender diversity

ACSI supports the proposal to update Recommendation 2.3 to recommend that the measurable objective for achieving gender diversity for board composition should be a gender balanced board (40:40:20). Gender diversity in board and executive leadership positions has been linked to stronger financial performance in companies due to increased innovation, efficiency and other operational benefits.¹

Just over 40% of ASX100 board positions are currently held by women and the boards of the broader ASX200 currently consist of around 38% women directors, approaching the proposed measurable objective. The proposed recommendation would still allow entities to determine the time frame over which this objective is set, and we consider this appropriately reflects the need for flexibility for those entities not already nearing gender balance on their boards. We therefore support the proposed updated measurable objective for board gender diversity.

In addition, ACSI's view is that the Principles should be updated to provide greater guidance on the appropriate measurable objectives for the composition of the workforce.²

Diversity and inclusion

Diverse, equitable and inclusive organisational cultures that are aligned to a company's strategy and reflect their stakeholder base improve company performance.³ Companies that successfully create a culture that empowers diversity, equity and inclusion are more likely to be innovative, have access to a wider pool of talent, better reflect their customer base, and have a lower risk of harassment occurring within their organisation. There are also increasing expectations from consumers and employees that companies will support diversity and inclusion.⁴ ACSI's view is that in selecting directors, the board should consider a range of diversity factors that could add value to board decision-making through varied perspectives, including but not limited to gender, age, LGBTQI+ identity, education and professional experience, socio-economic background, religion, ethnicity, and/or experience living with disability. ACSI encourages companies to disclose how they take all facets of diversity into account, along with information on the diversity of the board (across all areas)⁵.

We therefore support the changes to Recommendations 2.3 (c) and 3.4, which would encourage the disclosure of additional diversity characteristics under consideration at the board level, as well as disclosure of the effectiveness of an entity's diversity and inclusion practices. We note that Recommendation 2.3 (c) does not mandate that a board consider any particular diversity characteristic, and arguably lags behind other markets where, for example, policy interventions are stronger.⁶ In spite of this, we consider that disclosure is a useful place to start as the market matures and we would expect market leaders to be able to articulate their approach across all areas of diversity. Commentary that provides examples of broader diversity characteristics (such as that set out above) would be a helpful addition to Recommendation 2.3 (c). ACSI supports the proposed updates to Recommendations 2.3 and 3.4, however recommends that updated Recommendation 2.3 (c) should be considered a starting point (for the reasons set out above).

Corporate conduct and culture

ACSI supports the proposed changes to Recommendation 3.2 to encourage disclosure of the outcomes responding to conduct breaches on a de-identified basis. We understand the desire to protect confidentiality in some circumstances and therefore support the references to de-identification, noting that the disclosures would support investor understanding of how codes of conduct are implemented, rather than seeking to identify particular breaches. Several companies are already providing examples of effective outcome

¹ WGEA [Gender Equality Business Case](#) November 2018

² Refer for example to the work of the 40:40 Vision.

³ See for example, Scott Page, The Diversity Bonus, Boston Consulting Group, 2018, How diverse leadership boosts innovation, McKinsey, 2020, [Diversity Wins](#), Institute of Business Ethics, 2020, The Ethics of Diversity, and Cahn et. al. 2022 'The instrumental case for corporate diversity' Law and Inequality, 40.

⁴ See for example, Doyle and McDowall 2020, 'Diamond in the rough? An 'empty review' of research into 'neurodiversity' and a road map for developing the inclusion agenda,' Equality, diversity and inclusion, 41(3); Scott Page, The Diversity Bonus, Canadav, 2017 'Cognitive Diversity' Psychology Today; Diversity Council Australia [Inclusion@Work Index](#).

⁵ [ACSI Governance Guidelines](#)

⁶ See for example: UK Financial Conduct Authority Handbook ([Listing Rule 9.8.6R\(9\)](#)) and [Listing Rule 14.3.33R\(1\)](#) for premium and standard issuers 2022) and the NASDAQ Rulebook ([5606](#): Corporate Governance requirements - board diversity operative January 2023).

disclosure, including BHP's reporting of instances of sexual harassment⁷ and Macquarie's consequence management policies and disclosure.⁸ These examples show that outcomes reporting can be effective and improve investor confidence that entities are adequately managing breaches of their codes of conduct, while also appropriately protecting confidentiality.

In addition, we support the updated references to culture in the commentary to Recommendation 1.1.

Stakeholder relationships

ACSI supports the proposed changes to Principle 3 to include references to external stakeholders and the link to long-term sustainable value. Entities rely on a range of stakeholders, including communities, consumers, employees, governments, investors, regulators, and suppliers to operate and succeed. Acting in the best interests of the entity over the long-term requires considering this range of interests. Therefore, effective stakeholder engagement can prevent reputational damage and improve an entity's risk profile.⁹

Proposed Recommendation 3.3 does not specify the nature of the processes for engagement with stakeholders. We consider this is appropriate so that entities can design and implement processes as they see fit. We also support the Recommendation's references to the elevation of material issues to the board, as this can support directors in their oversight of the entity. ACSI therefore supports the proposed changes in both Principle 3 and proposed Recommendation 3.3.

ACSI notes that Aboriginal and Torres Strait Islander people are included in the draft commentary's references to stakeholders, however, we encourage the Council to strengthen the references to the consideration of Aboriginal and Torres Strait Islander people as important stakeholders in the Australian context, by for example giving more prominence in the document to the United Nations Declaration on the Rights of Indigenous Peoples, and the concept of free prior and informed consent.

In addition, we support the references to stakeholders in the updated commentary to Recommendation 1.1 and recommend that the commentary to recommendation 1.2 be updated to reflect the recognition of stakeholders – in particular that all candidates for election should acknowledge to the entity **and** its stakeholders that they will have sufficient time to fulfill their responsibilities as a director.

Remuneration

ACSI supports the proposed changes to Recommendations 8.2 and 8.3.

We agree with the principle that director and executive remuneration policies and practices should be fair and responsible; and that remuneration of executives should align with the entity's values, strategic objectives, risk appetite and the creation of long-term sustainable value for security holders. Further, it is generally accepted as good governance that non-executive directors be remunerated using fixed fees only and therefore we support the proposed new Recommendation 8.2.¹⁰

We also support the alignment of remuneration outcomes with the creation of long-term value and accordingly, support the use of clawback mechanisms where required. In addition, Recommendation 8.3's proposal to encourage disclosure of the use of clawback mechanisms would align with the recently updated UK Corporate Governance Code.¹¹

Anti-bribery and corruption

ACSI notes that bribery and corruption is prohibited under Australian law,¹² however, the law does not specifically require entities to have an anti-bribery and corruption policy, nor does it require the provision of information on breaches of the policy to the board. As existing Recommendation 3.4 supplements legislation, ACSI recommends its retention in the Principles and Recommendations to support better practice.

⁷ BHP sexual harassment reporting includes the number of cases that were identified and investigated, the manner of these cases in addition to how they were resolved. This disclosure can be found on page 41 of the [2023 Annual Report](#).

⁸ Macquarie Group discloses its consequence management policies in addition to how these policies have been enacted to respond to breaches of its Code of Conduct on page 117 of their [2023 Annual Report](#).

⁹ OECD Guidance [Extractive Sector Stakeholder Engagement](#) 2015

¹⁰ See section 2.2 in [ACSI's Governance Guidelines](#) December 2023

¹¹ See principle 38 section 5 of the [UK Corporate Governance Code](#) January 2024

¹² Such as section 70.2 in the [Criminal Code Act 1995](#)

Whistleblower policies

Research conducted by the Australian Securities and Investments Commission indicates that whistleblower policies consistently fall short of regulatory requirements.¹³ Whistleblowing policies can prevent financial, legal and reputational risks associated with unethical or illegal conduct and can signal to investors that there are effective channels to identify and address misconduct and can demonstrate a responsible corporate culture.¹⁴ Accordingly, we are of the view that the existing Recommendation should be retained to encourage stronger market practice.

Other

Investor Engagement: We welcome the commentary at Recommendation 6.2 that an entity should consider engagement with investors where a significant number of votes are cast against a resolution and disclose any actions taken to understand and respond to the vote. We note Provision 4 of the UK Corporate Governance Code provides further guidance to entities in this respect and recommend that Council consider how it can further strengthen its guidance in line with the approach taken in the UK.

Entities established outside Australia: We note that where entities are listed in Australia, but established outside Australia, separate provisions are intended to apply. We recommend that those provisions be extended to also include other relevant governance issues, consistent with Australian requirements, for example advisory votes on remuneration, as well as provisions on the frequency of director election.

All risk is financial in nature: We welcome Council's statement in the background paper and Consultation document that it seeks to move away from distinctions between financial and non-financial risk, to recognise that all risk is financial in nature. We recommend that Council review the references in the Principles and Recommendations to 'non-financial' risks (for example in the commentary to Recommendation 1.6) to reflect the approach articulated in the Consultation document.

I trust our comments are of assistance. Please contact me or Kate Griffiths (kgriffiths@acsi.org.au) should you require any further information.



Louise Davidson AM
Chief Executive Officer
Australian Council of Superannuation Investors

¹³ ASIC's research on whistleblower policies was referenced in its [letter to Australian CEOs](#) which asks them to review their whistleblower policies October 2021

¹⁴ UNPRI Governance Issues - [Whistleblowing why and how to engage with your investee companies](#) December 2020

APPENDIX A: RESPONSE TO CONSULTATION QUESTIONS

ACSI's responses to the consultation questions are included below.

Consultation question	ACSI response
<p>Question 1 Do you support deletion of the following 4th Edition Recommendations, on the basis that there is significant regulation under Australian law?</p> <p>a. Recommendation 3.4 (disclosure of anti-bribery and corruption policy)?</p>	<p>ACSI notes that bribery and corruption is prohibited under Australian law, however, the legislation does not specifically require entities to have an anti-bribery and corruption policy, nor does it require the provision of information on breaches of the policy to the board. As Recommendation 3.4 supplements (rather than replicates) existing legislation, ACSI recommends its retention in the Principles and Recommendations to support better practice.</p>
<p>b. Recommendation 4.2 (CEO and CFO declaration for financial statements)?</p>	<p>ACSI does not support the proposal to delete Recommendation 4.2 as the declarations on internal controls and sound risk management systems are not specified under section 295A of the Corporations Act (2001). While we note that this text is partially included in the updated commentary under Recommendation 4.2, and the updated Recommendation 7.2 (which proposes that 'an entity's risk management and internal control frameworks are reviewed at least annually at board level'), ACSI considers a stand-alone recommendation would better encourage management to consider the appropriateness of its internal controls and risk management systems on a regular basis.</p>
<p>c. Recommendation 6.4 (substantive security holder resolutions on a poll)?</p>	<p>ACSI supports the proposal to delete Recommendation 6.4 as this is now addressed in section 250JA of the Corporations Act (2001).</p>
<p>d. Recommendation 6.5 (offering electronic communications to security holders)?</p>	<p>ACSI supports the proposal to delete Recommendation 6.5 as this is now addressed in section 110D of the Corporations Act (2001).</p>
<p>e. Recommendation 8.2 (separate disclosure of remuneration policies for non-executive directors, other directors and senior executives)?</p>	<p>ACSI supports the proposal to delete Recommendation 8.2 on the basis that market practice generally makes clear the differences between remuneration of non-executive directors and management.</p>
<p>f. Recommendation 8.3 (policy on hedging of equity-based remuneration)?</p>	<p>ACSI supports the proposal to delete Recommendation 8.3 as it is addressed in section 206J in the Corporations Act (2001) for key management personnel.</p>

<p>Question 2 In particular, the Council encourages feedback on the proposed deletion of Recommendation 3.3 (disclosure of whistleblower policy). Would you prefer to retain this Recommendation?</p>	<p>While there is some coverage of whistleblower policies in regulation, research conducted by the Australian Securities and Investments Commission indicates that whistleblower policies consistently fall short of regulatory requirements.¹⁵</p> <p>Accordingly, we are of the view that the existing recommendation should be retained to encourage stronger market practice.</p>
<p>Question 3 Recommendation 2.2: The Council already recommends disclosure of a board skills matrix or skills a board is looking for. Do you support disclosure of the following information about board skills? a. Recommendation 2.2(a): current board skills and skills that the board is looking for? b. Recommendation 2.2(b): the entity's process for assessing that the relevant skills and experience are held by its directors?</p>	<p>ACSI supports the changes proposed to Recommendation 2.2a and b. Appropriate disclosure of director skills and experience is crucial for investors to understand the board's ability to govern the entity effectively. The proposed changes would give investors further insight into how directors' skills and experience are assessed and indicate whether the board is satisfied it has the right composition. Such disclosures would support investor confidence in the nomination process.</p> <p>We also support the updated commentary on better practice disclosure, on the basis it outlines how entities can develop their disclosures, should they consider it appropriate, without mandating one specific approach.</p>
<p>Question 4 Recommendation 2.3: Women hold approximately 35% of all S&P/ASX300 directorships. This exceeds the existing measurable objective of at least 30% of each gender for those boards. Do you support raising the S&P/ASX300 measurable objective to a gender balanced board?</p>	<p>ACSI supports the proposed changes to Recommendation 2.3. There is sufficient market maturity to recommend a measurable objective of gender balanced boards. For those entities that have not yet reached the proposed objective, the proposed Recommendation and the 'if not, why not' approach of the Principles and Recommendations offers appropriate flexibility.</p>
<p>Question 5 Recommendation 2.3(c): The Council already recommends disclosure of a board's approach and progress on gender diversity. Do you support the proposed disclosure of any other relevant diversity characteristics (in addition to gender) which are being considered for the board's membership?</p>	<p>ACSI supports the proposed Recommendation 2.3(c) to disclose diversity factors in addition to gender, if they are under consideration.</p> <p>The commentary complementing the proposed new Recommendation provides guidance and resources on the benefits of incorporating broader diversity considerations. It clarifies that disclosure is useful where entities are considering additional diversity factors, rather than specifying a particular approach. We recommend that additional commentary to provide examples of broader diversity characteristics (for example including but not limited to age, LGBTQI+ identity, education and professional experience, socio-economic background, religion, ethnicity, and/or experience living with disability) would be a helpful addition to Recommendation 2.3 (c). ACSI supports the proposed changes as a starting point.</p>

¹⁵ ASIC's research on whistleblower policies was reference in its [letter to Australian CEOs](#) which asks them to review their whistleblower policies October 2021

<p>Question 6 Recommendation 3.4: The Council already recommends disclosure of an entity's diversity and inclusion policy and disclosure of certain gender metrics. Do you support the proposal to also recommend disclosure of the effectiveness of an entity's diversity and inclusion practices?</p>	<p>ACSI supports the proposed changes to Recommendation 3.4 to encourage disclosure of the effectiveness of an entity's diversity and inclusion practices.</p> <p>We consider that the existence of policies is an important foundational step that should be supplemented by disclosure of outcomes, to demonstrate effectiveness.</p>
<p>Question 7 Recommendation 2.4: Do you support increasing the security holding reference included in Box 2.4 (factors relevant to assessing the independence of a director) from a substantial holder (5% or more) to a 10% holder (10% or more)?</p>	<p>ACSI does not support the proposed changes to Box 2.4 on the basis that they are unnecessarily confusing. ACSI recommends that the box retains references to 5% of shareholdings when considering director independence, in line with the definition of substantial shareholder in the Corporations Act. Box 2.4 provides factors to consider, rather than bright line tests, therefore we consider that the changes unnecessarily introduce complexity where there is already sufficient flexibility.</p>
<p>Question 8 Recommendation 3.2(c): The Council already recommends that a listed entity should have a code of conduct and report material breaches of that code to its board or a board committee. Do you support the proposed disclosure (on a de-identified basis) of the outcomes of actions taken by the entity in response to material breaches of its code?</p>	<p>ACSI supports the proposed changes to Recommendation 3.2 to encourage disclosure of the outcomes of actions taken to respond to breaches of its Code of Conduct on a de-identified basis.</p> <p>We understand the desire to protect confidentiality where appropriate and therefore support the references to de-identification, noting that the disclosures would support investor understanding of how Codes of Conduct are implemented, rather than identify particular breaches. ACSI notes that several companies are already providing examples of effective outcome disclosure including BHP's reporting of instances of sexual harassment¹⁶ and Macquarie's consequence management policies and disclosure.¹⁷ These examples show that outcomes reporting can be effective and can improve investor confidence that entities are adequately managing breaches of their codes of conduct, while also appropriately protecting confidentiality.</p>
<p>Question 9 Principle 3: Do you support the proposed amendments to Principle 3 (acting lawfully, ethically and responsibly), to include references to an entity's stakeholders?</p>	<p>ACSI supports the proposed changes to Principle 3 to include references to external stakeholders and the link to long-term sustainable value. Effective stakeholder engagement can prevent reputational damage and improve an entity's risk profile. We recommend that Council update the references from 'employees' to 'workforce' to reflect the broader nature of the workforce and consider whether the reference to human rights and modern slavery risks are sufficiently prominent in the Recommendations and Commentary.</p>

¹⁶ BHP sexual harassment reporting includes the number of cases that were identified and investigated, the manner of these cases in addition to how they were resolved. This disclosure can be found on page 41 of the [2023 Annual Report](#).

¹⁷ Macquarie Group discloses its consequence management policies in addition to how these policies have been enacted to respond to breaches of its Code of Conduct on page 117 of its [2023 Annual Report](#).

<p>Question 10 Recommendation 3.3: Does this new Recommendation appropriately balance the interests of security holders, other key stakeholders, and the listed entity? "A listed entity should have regard to the interests of the entity's key stakeholders, including having processes for the entity to engage with them and to report material issues to the board."</p>	<p>ACSI supports the addition of the new Recommendation 3.3. Entities rely on a range of stakeholders (including communities, consumers, employees, governments, investors, regulators, and suppliers) to operate and succeed, and acting in the best interests of the entity over the long-term requires considering a range of interests.</p> <p>As set out above, there is an opportunity to broaden the examples of stakeholders articulated in the commentary, in particular in respect of workforce, human rights and Aboriginal and Torres Strait Islander Peoples.</p>
<p>Question 11 Recommendation 4.2: Do you support the proposed disclosure of processes for verification of all periodic corporate reports (including the extent to which a report has been the subject of assurance by an external assurance practitioner)?</p>	<p>We agree that disclosure of processes that support the integrity of periodic corporate reports is beneficial. We also agree that the commentary outlining directors' responsibilities in this respect is helpful.</p>
<p>Question 12 Recommendation 4.3: Do you support the proposed disclosure of an entity's auditor tenure, when the engagement was last comprehensively reviewed and the outcomes from that review?</p>	<p>ACSI supports the proposed Recommendation 4.3. This addition would align with existing industry guidance¹⁸ and the outcomes from the 2020 Parliamentary Joint Committee report on Regulation of Auditing in Australia, which recommended the Financial Reporting Council oversee the introduction of a provision similar to Recommendation 4.3 into Australian standards.¹⁹</p>
<p>Question 13 Recommendation 7.4: The Council is seeking to enhance the quality of existing reporting of material risks to an entity's business model and strategy, such as in the operating and financial review in its directors' report. Do you support the proposal that the entity identify and disclose its material risks, rather than identifying specific risks for all entities to disclose against?</p>	<p>ACSI supports the approach taken in Recommendation 7.4. We encourage listed entities to consider material environmental, social and governance risks, as part of their identification and management of risk more broadly. Our view is that Council should continue to monitor developments in sustainability reporting (both in Australia and internationally) and reflect these developments in the Principles. This should not however replace references in the Principles and Recommendations to material environmental, social and governance risks as the market's recognition and disclosure of such risks is not sufficiently embedded or mature.</p>
<p>Question 14 Recommendation 8.2: This proposed Recommendation reflects and simplifies existing commentary in the 4th Edition. Do you support this proposed Recommendation that non-executive directors not receive performance-based remuneration or retirement benefits?</p>	<p>ACSI supports the proposed Recommendation 8.2. ACSI's view is that non-executive directors should generally be remunerated by way of reasonable fixed fees only, and we therefore support the proposed changes.²⁰</p>
<p>Question 15 Recommendation 8.3: Do you support the following proposed clawback Recommendations? a. Recommendation 8.3(a): remuneration structures which can clawback or otherwise limit remuneration outcomes for senior executive performance-based remuneration? b. Recommendation 8.3(b): disclosure of</p>	<p>ACSI supports the proposed Recommendation 8.3. We support the alignment of remuneration outcomes with the creation of long-term value and accordingly, support the use of clawback mechanisms where required. In addition, Recommendation 8.3 (b)'s approach to disclosure of the use of clawback mechanisms during the reporting period would also align with the UK Corporate Governance Code.²¹ ACSI therefore supports these changes.</p>

¹⁸ See for example ACSI's Governance Guidelines December 2023 section 1.10 Financial Integrity – familiarity and rotation

¹⁹ [Recommendations](#) from the Parliamentary Joint Committee on Corporations and Financial Services – regulation of auditing in Australia

²⁰ See section 2.2 in [ACSI's Governance Guidelines](#) December 2023

²¹ See principle 38 section 5 of the [UK Corporate Governance Code](#) January 2024

<p>the use of those provisions (on a de-identified basis) during the reporting period?</p>	
<p>Question 16 Do you support the inclusion of the following new Recommendations for entities established outside Australia, on the basis that these Recommendations generally reflect expectations under Australian law? a. Recommendation 9.3 (CEO and CFO declaration for financial statements)? b. Recommendation 9.4 (substantive security holder resolutions on a poll)? c. Recommendation 9.5 (offering electronic communications to security holders)? d. Recommendation 9.7 (policy on hedging of equity-based remuneration)?</p>	<p>16a. ACSI supports the inclusion of the proposed Recommendation 9.3. b., c., and d. ACSI supports the inclusion of proposed Recommendations 9.4, 9.5 and 9.6. We consider that these Recommendations align with the position for entities established in Australia.</p>
<p>Question 17 Should any new or amended Recommendations in the Consultation Draft apply differently to externally managed entities, compared to the manner proposed in the application of the Recommendations to externally managed listed entities?</p>	<p>ACSI has no comment on this question.</p>
<p>Question 18 Do you support an effective date for the Fifth Edition of the first reporting period commencing on or after 1 July 2025?</p>	<p>ACSI supports the proposed effective date and believes this provides sufficient notice to entities to update their reporting, policies and practices. Given that the changes represent 'evolution' rather than wholesale change, along with the 'if not, why not' nature of the Principles and Recommendations, we consider that an earlier start date could also be appropriate.</p>
<p>Question 19 Do you wish to provide any other comments on the content of the Consultation Draft, including any other changes you would propose?</p>	<p>Capital raising ACSI would support an additional Recommendation that would require boards to have oversight of capital raising processes. The importance of this oversight was highlighted during the COVID-19 crisis.²² This issue remains in substance and should be a key consideration for directors.²³ ACSI recommends that the Council encourage strong oversight and governance over capital raising processes in line with shareholders' best interests.</p> <p>Safety While ACSI supports the addition of safety risks to the commentary under Recommendation 7.4, the Principles should set out further disclosure Recommendations on safety including fatality reporting. Research has shown that companies are increasingly disclosing safety data, however, there are gaps in current market practice,²⁴ which suggests the need for further guidance. ACSI encourages the Council to consider strengthening disclosure on safety in the Principles and Recommendations.</p>

²² ACSI Media Release [Investors call on companies to protect existing shareholder value in capital raising](#) 2020

²³ See for example: [Raising Equity Capital – Issues for Directors](#) October 2019

²⁴ ACSI [Safety reporting by ASX200 Companies](#) September 2020

Sexual Harassment

ACSI supports the existing references to sexual harassment, as they align with new Positive Duty legislation and guidance. Nonetheless, these references could be strengthened from commentary to Recommendations. Companies are increasingly considering their governance of sexual harassment, however, there is an opportunity to build upon existing legislative requirements to prevent and respond to sexual harassment.²⁵ ACSI encourages the Council to consider strengthening the references to Positive Duty conduct, the relevant duties to prevent such conduct and the guidance provided by the Australian Human Rights Commission.

²⁵ ACSI, AICD and AHRC [Positive Duty: Preventing and Responding to Workplace Sexual Harassment](#) December 2023