



### The practice of minuting meetings

ICAEW welcomes the opportunity to comment on the *Consultation: The practice of minuting meetings* published by The Governance Institute, a copy of which is available from this [link](#).

This ICAEW response of 15 July 2016 reflects wide consultation, including with the Corporate Governance Committee whose members are drawn from the business, investment and public practice communities. The Committee informs our thought leadership and policy work on corporate governance issues and related submissions to regulators and other external bodies.

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## Introduction

1. Timely agreed minutes are essential for good governance as they are the official record of meetings and decisions which shape an organisation. Minutes are important because meetings are human interactions which involve numerous subtleties, and individuals who attend are likely to recall discussions with different emphases.
2. Minutes are the day-to-day working method for a large number of organisations, and therefore the revised guidance needs to be fully accessible to a wide audience. The guidance should not be complicated or unnecessarily technical as it needs to be easily understood by non-specialists.

## Company Policy

3. The guidance should say that the chair, company secretary and board need to agree a policy which covers:
  - Expected uses for minutes, how they will facilitate quality decision-making, help the organisation to work better and enhance the understanding of people who deal with the organisation;
  - How meetings will be recorded and how minutes will be prepared including level of detail;
  - How long minutes and supporting records will be kept;
  - How minutes will be finalised, eg, whether relevant developments which occur after the meeting will be recorded, and whether the chair will be given an initial opportunity to comment on draft minutes;
  - When the chair will consider using any formulation of the Chatham House Rule;
  - When individuals will be named in relation to discussion points, abstentions and negative votes;
  - How the chair will deal with requests for remarks to either not be recorded or to be recorded verbatim; and
  - Whether or how publication will take place.
4. The guidance should outline the issues which could and should be covered in a company's policy, but it must not be prescriptive. Organisations must feel free to devise their own policies.
5. As a minimum policies should be reviewed when the chair or company secretary change. This should help avoid the risk that working methods stray from the policy.

## Publication

6. Directors and auditors have the right to inspect all board and committee minutes. Guests and observers often receive the minutes for the part of the meeting which they attended. Beyond this it can be difficult for organisations to decide whether to routinely categorise board minutes as confidential, whether to publish full board minutes or whether to provide minutes to some people on request. Some organisations have tried to reach an acceptable compromise by publishing summaries.
7. The guidance should outline the advantages of each approach as this will help organisations to identify the issues and scenarios which could apply to them. The objective should be for organisations to feel confident about justifying their approach if it is ever challenged, eg, possible justifications for confidentiality are commercial or price sensitivity, and to discourage informal and unminuted conversations taking place outside of formal meetings.

## Compliance

8. The guidance should be high-level. This would reflect the lack of prescription in the Companies Act (2006), the explanatory notes to the Act and the Model Articles. Provision A.4.3 of the Corporate Governance Code says that Non-Executive Directors should ensure that any concerns about the running of the company or a proposed action are recorded. However, no further detail is provided, and in any event comply or explain applies.
9. Most organisations agree amendments to minutes or agree draft minutes at the succeeding meeting. There may be a misunderstanding that this is a legal requirement, and it would be helpful if the guidance clarified the position. The guidance could suggest expediting finalisation of minutes through the use of email or other technologies, particularly if meetings are infrequent.

## Other Matters

10. The guidance should allow flexibility, encourage innovation and discourage the perception that minutes are a compliance exercise. It should suggest alternative approaches with an outline of their advantages, eg, the advantages of conflicts of interest being covered at every meeting, and the advantages of only covering conflicts when they arise. No particular approach should be identified as 'best practice' as this would undermine the key messages of flexibility and innovation.
11. Flexibility and innovation must apply to the important matter of detail versus brevity, eg, some organisations may be content for their minutes to solely comprise lists of action points, while other organisations may find audio or video recording sufficient. The guidance should outline the advantages of all forms of brief and detailed records, and then leave it to organisations to decide which route to take. It would be helpful if the guidance outlined the advantages of including the reasons why decisions were reached.
12. The current guidance note refers to preliminary matters such as a clear agenda, a pre-meeting between the minute taker and the chair, and an ability and willingness on the part of the minute taker to seek clarification during the meeting if required. It is worth retaining these points.
13. The contemporaneous note of the minute taker shouldn't necessarily take precedence, eg, there may be an audio or video recording, and chair's view is another important factor. Ultimately it may be necessary for the minutes to record disagreements.
14. We caution against a disproportionate focus on regulatory or investigatory interest, or on the potential for litigation. The focus should be the value of minutes in effective working which should avoid investigations and disputes.