

Annex 9

Definition of Independence¹⁶¹

The board should identify in the annual report each nonexecutive director it considers to be independent. The board should determine whether the director is independent in character and judgment and whether there are relationships or circumstances which are likely to affect, or could appear to affect, the director's judgment. The board should state its reasons if it determines that a director is independent notwithstanding the existence of relationships or circumstances which may appear relevant to its determination, including if the director:

- Has been an employee of the company or group within the last five years;
- Has, or has had within the last three years, a material business relationship with the company either directly, or as a partner, shareholder, director or senior employee of a body that has such a relationship with the company;
- Has received or receives additional remuneration from the company apart from a director's fee, participates in the company's share option or a performance-related pay scheme, or is a member of the company's pension scheme;
- Has close family ties with any of the company's advisers, directors or senior employees;
- Holds cross-directorships or has significant links with other directors through involvement in other companies or bodies;
- Represents a significant shareholder; or
- Has served on the board for more than nine years from the date of their first election.

All of the above criteria, barring that related to representing significant shareholdings, are relevant in the public sector context (with some adaptation).

¹⁶¹ Adapted from Unlocking Your Board's Full Potential: Board Evaluation Questionnaire, UK National Audit Office, ICAEW Non-executive board members Group, Mazars.