



New 2019 reporting requirements for large private companies – a reminder

Headlines

- Four new governance-related reporting requirements for large private companies will be required (subject to size criteria – see full details below) in annual reports for periods commencing on or after 1 January 2019 (i.e. for 2019 December year ends):
 - Section 172(1) statement;
 - Statement of corporate governance arrangements;
 - Employee engagement; and
 - Business relationships.
- This is a real opportunity for companies to paint an authentic picture of all the key messages on their business model, future strategies and engagement with the company's ecosystem and environment as well as their core values.
- The reach of these new requirements is considerable and there is no exemption for subsidiary companies. Very large private companies will be undertaking most of these activities already but for companies at the lower end of the scoping criteria, more attention and effort will be required.
- A set of six high level principles of corporate governance (the Wates Principles) has been issued to help the largest private companies meet the new legislative requirement to report on their corporate governance arrangements.
- In addition, large private companies and LLPs will be required to disclose information about their UK greenhouse gas emissions, energy consumption and energy efficiency for periods commencing on or after 1 April 2019.

Section 172(1) statement

Scope: Companies qualifying as large under the Companies Act 2006, i.e. those that meet at least two of the following criteria:

- Turnover of more than £36m;
- Balance sheet total of more than £18m;
- More than 250 employees.

This requirement also applies to medium sized companies that are ineligible under section 467(1) of Companies Act 2006.

There is no exemption for subsidiary companies. All qualifying companies, including subsidiaries, need to meet the new reporting requirements.

Requirement: A strategic report for a financial year of a company must include a statement which describes how the directors have had regard to the matters set out in section 172(1)(a) to (f) when performing their duty under section 172.

Section 172 – Duty to promote the success of the company

A director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefits of its members as a whole, and in doing so have regard (amongst other matters) to factors (a) to (f).

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Section 172 matters

- (a) the likely consequences of any decision in the long term,
- (b) the interests of the company's employees,
- (c) the need to foster the company's business relationships with suppliers, customers and others,
- (d) the impact of the company's operations on the community and the environment,
- (e) the desirability of the company maintaining a reputation for high standards of business conduct, and
- (f) the need to act fairly as between members of the company.

Timing: For periods commencing on or after 1 January 2019.

In practice: The Department for Business, Energy and Industrial Strategy (BEIS) has issued some FAQs to assist in interpreting the new reporting requirements. The key points from those guidelines are as follows:

"Depending on the individual circumstances, companies will probably want to include information on some or all of the following:

- the issues, factors and stakeholders the directors consider relevant in complying with section 172 (1) (a) to (f) and how they have formed that opinion;
- the main methods the directors have used to engage with stakeholders and understand the issues to which they must have regard; and
- information on the effect of that regard on the company's decisions and strategies during the financial year.

Companies will need to judge what is appropriate, but the statement should be meaningful and informative for shareholders, shed light on matters that are of strategic importance to the company and be consistent with the size and complexity of the business."

Guidance on how to approach the statement is provided in Section 8 of the FRC's Guide to the Strategic Report and the Deloitte publication '[Board briefing on the new Section 172\(1\) statement](#)'.

Statement of corporate governance arrangements

Scope: All companies of a significant size (more than 2,000 employees OR a turnover of more than £200 million and a balance sheet of £2 billion), that are not currently required to provide a corporate governance statement.

There is no exemption for subsidiary companies. All qualifying companies, including subsidiaries, need to meet the new reporting requirements.

Requirement: The directors' report must include a statement (a "statement of corporate governance arrangements") which states:

- (a) which corporate governance code, if any, the company applied in the financial year,
- (b) how the company applied any corporate governance code reported under sub-paragraph (a), and
- (c) if the company departed from any corporate governance code reported under sub-paragraph (a), the respects in which it did so, and its reasons for so departing.

If the company has not applied any corporate governance code for the financial year, the statement of corporate governance arrangements must explain the reasons for that decision and explain what arrangements for corporate governance were applied for that year.

Timing: For periods commencing on or after 1 January 2019.

In practice: See our [Governance in brief](#) for a summary of the Wates Corporate Governance Principles for large private companies which is a voluntary framework which has been developed to help companies meet the new statutory reporting requirement. The FAQs issued by BEIS suggests that the Government hopes that the Wates Corporate Governance Principles will be widely adopted by companies within scope for this new reporting requirement. It is suggested that the statement of corporate governance arrangements could include a short supporting statement for each of the six principles explaining how the principle has been applied.

For companies choosing not to apply any corporate governance code for the financial year, the statement of corporate governance arrangements should, in addition to explaining the reason for that decision, provide an explanation of the following matters:

- the nature, constitution or function of the board and any board committees of the company;
- the manner in which the board and any board committees conduct themselves;
- the requirements imposed on the board and any board committees;
- the relationship between the board and any board committees; and
- the relationship between the board and any board committees and the shareholders of the company.

Statement on employee engagement

Scope: All UK companies incorporated under the Companies Act 2006 where the monthly average number of UK-based employees exceeds 250.

There is no exemption for subsidiary companies. All qualifying companies, including subsidiaries, need to meet the new reporting requirements.

Requirement: The directors' report for a financial year must contain a statement summarising:

- (i) how the directors have engaged with employees; and
- (ii) how the directors have had regard to employee interests, and the effect of that regard, including on the principal decisions taken by the company during the financial year.

Timing: For periods commencing on or after 1 January 2019.

In practice: This requirement builds on an existing disclosure requirement for the directors' report but it also overlaps with section 172 factor (b). For most companies, it is likely that employee matters will be of strategic importance and will be covered in the Section 172(1) statement. In these circumstances, at a minimum, there should be a section included in the Directors' Report called 'Employee engagement' and then a cross reference to the Section 172(1) statement and/or other relevant disclosure.

For companies not covering employee engagement in the Section 172(1) statement, the statement on employee engagement must be provided in the directors' report.

Statement on business relationships

Scope: Companies qualifying as large under the Companies Act 2006, i.e. those that meet at least two of the following criteria:

- Turnover of more than £36m;
- Balance sheet total of more than £18m;
- More than 250 employees.

There is no exemption for subsidiary companies. All qualifying companies, including subsidiaries, need to meet the new reporting requirements.

Requirement: The directors' report for the financial year must contain a statement summarising how the directors have had regard to the need to foster the company's business relationships with suppliers, customers and others, and the effect of that regard, including on the principal decisions taken by the company during the financial year.

Timing: For periods commencing on or after 1 January 2019.

In practice: This requirement overlaps with section 172 factor (c). For most companies, it is likely that business relationships with suppliers and customers will be of strategic importance and will be covered in the Section 172(1) statement. In these circumstances, at a minimum, there should be a section included in the Directors' Report called 'Business relationships' and then a cross reference to the Section 172(1) statement and/or other relevant disclosure.

For companies not covering business relationships in the Section 172(1) statement, the statement on business relationships must be provided in the directors' report.

Energy and carbon reporting

Scope: Companies and LLPs qualifying as large under the Companies Act 2006, i.e. those that meet at least two of the following criteria:

- Turnover of more than £36m;
- Balance sheet total of more than £18m;
- More than 250 employees.

Requirement: The following new disclosure requirements in relation to UK energy use and carbon emissions will be required in the directors' report (an "energy and carbon report" for LLPs):

- The annual quantity of emissions in tonnes of carbon dioxide equivalent resulting from activities for which the company is responsible involving the combustion of gas or the consumption of fuel for the purposes of transport.
- The annual quantity of emissions in tonnes of carbon dioxide equivalent resulting from the purchase of electricity by the company for its own use, including for the purposes of transport.
- A figure, in kWh, which is the aggregate of the annual quantity of energy consumed from activities for which the company is responsible involving the combustion of gas or the consumption of fuel for the purposes of transport and the annual quantity of energy consumed resulting from the purchase of electricity by the company for its own use, including for the purposes of transport.
- The methodologies used to calculate the information disclosed above.

- At least one ratio which expresses the company's annual emissions in relation to a quantifiable factor associated with the company's activities.
- If the company has in the financial year to which the report relates taken any measures for the purpose of increasing the company's energy efficiency, the report must contain a description of the principal measures taken for that purpose.

Timing: For periods commencing on or after 1 April 2019.

In practice: The key difference between the requirements for large private companies and LLPs and those for quoted companies is that quoted companies must also provide data for energy use and emissions outside of the UK.

Subject to certain exemptions set out below, the disclosures must be provided by all entities in scope, irrespective of materiality. There is no threshold referencing "to the extent necessary for an understanding of the position and performance of the business". This information can be elevated from the directors' report to the strategic report if of strategic importance to the company.

The exemptions are as follows:

- If the company or LLP consumed less than 40,000kWh of energy during the period or if the disclosure would be seriously prejudicial to the interests of the company or LLP, then they may state that the information is not disclosed for this reason.
- For the report of a group, the required statements must be made on the basis of the company or LLP's information and its in-scope subsidiaries. There is no need to report on subsidiaries that fall outside of the scope of the Regulations.
- A subsidiary is not required to provide this information if it is included within the group reporting of a parent company which has provided the relevant reporting as part of the group accounts.

For further information on Energy and Carbon reporting, please see [Need to know: Government enacts new energy and carbon reporting requirements for all large companies and limited liability partnerships](#).

For further information on what does climate change mean for business, please see our new website www.deloitte.co.uk/climatechange.

For further information:

[The Miscellaneous Reporting Regulations](#)

[The FRC Strategic Report Guidance](#)

[Board briefing on the new Section 172\(1\) Statement](#)

[The Wates Principles](#)

[Energy and carbon reporting regulations](#)

[Need to know: Government enacts new energy and carbon reporting requirements for all large companies and limited liability partnerships](#)

[What does climate change mean for business?](#)

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Appendix

Required to disclose? Yes / No

	Section 172(1) statement ² ³ – all companies qualifying as large under the Companies Act 2006 (unless ineligible) ⁴	UK employee engagement disclosures ^{2,3} – all companies with more than 250 UK employees ^{1,5}	Business relationships disclosures – all companies qualifying as large under the Companies Act 2006 ⁵	Corporate governance arrangements – companies with either turnover > £200m and balance sheet total > £2bn OR over 2,000 employees ^{6,7}	Energy & carbon reporting statement – all companies and LLPs qualifying as large under the Companies Act 2006
<p>Example 1</p> <p>Unlisted, UK registered intermediate holding company</p> <p>No turnover or employees in company</p> <p>Parent group outside EEA and does not prepare consolidated accounts that are publicly available</p> <p>Prepares consolidated accounts</p> <p>On a consolidated basis:</p> <ul style="list-style-type: none"> • Turnover >£200m • Balance sheet total⁸ >£2bn • 2,000+employees, of which 250+UK employees¹ 	Yes	Yes	Yes	No	Yes
<p>Example 2</p> <p>Unlisted, UK registered company, subsidiary of a listed UK group</p> <ul style="list-style-type: none"> • Turnover >£200m and balance sheet total⁸ >£2bn <p>OR</p> <ul style="list-style-type: none"> • 2,000+employees 	Yes	Yes	Yes	Yes	Yes
<p>Example 3</p> <p>Unlisted, UK registered company, subsidiary of a listed UK group, meeting two of the following three criteria:</p> <ul style="list-style-type: none"> • Turnover >£36m and <£200m • Balance sheet total⁸ >£18m and <£2bn • > 250 employees 	Yes	Yes	Yes	No	Yes

Required to disclose? Yes / No

	Section 172(1) statement ² ³ – all companies qualifying as large under the Companies Act 2006 (unless ineligible) ⁴	UK employee engagement disclosures ^{2,3} – all companies with more than 250 UK employees ^{1,5}	Business relationships disclosures – all companies qualifying as large under the Companies Act 2006 ⁵	Corporate governance arrangements – companies with either turnover > £200m and balance sheet total > £2bn OR over 2,000 employees ^{6,7}	Energy & carbon reporting statement – all companies and LLPs qualifying as large under the Companies Act 2006
Example 4 Unlisted, UK registered company, subsidiary of a listed UK group Ineligible company under CA 2006 s467(1) – e.g. an e-money issuer or PLC Turnover > £10.2m and <£36m Balance sheet total ⁸ > £5.1m and <£18m > 50 and < 250 employees	Yes	No	No	No	No
Example 5 Unlisted, UK registered company, subsidiary of a listed UK group Turnover > £10.2m and <£36m Balance sheet total ⁸ > £5.1m and <£18m > 250 UK employees	No	Yes	No	No	No
Example 6 Unlisted, UK registered company meeting two or more of the following criteria: • Turnover <£36m • Balance sheet total ⁸ <£18m • < 250 employees	No	No Unless >250 UK employees ¹	No	No	No

¹ A UK employee is “a person employed under a contract of service ... other than a person employed to work wholly or mainly outside of the UK.”

² In practice, the scope for the Strategic Report update and for the employee engagement disclosures will remain familiar for most companies. Large companies that need to prepare a Strategic Report under the existing requirements will be required to prepare a s172(1) statement (although medium sized companies will not need to do so unless they are ineligible); companies that disclose employee engagement under the existing requirements will be required to include the updated employee engagement disclosures.

³ If these disclosures are covered by s172(1) statement then a cross-reference will be sufficient.

⁴ The Companies (Miscellaneous Reporting) Regulations 2018, Part 2, Regulation 4

⁵ The Companies (Miscellaneous Reporting) Regulations 2018, Part 3, Regulation 13

⁶ These requirements apply to UK companies that meet the size criteria on a company-only basis and are not otherwise required to report on their corporate governance arrangements in the annual report – this will include AIM companies and unlisted companies.

⁷ The Companies (Miscellaneous Reporting) Regulations 2018, Part 3, Regulation 14

⁸ The balance sheet total is the sum of all asset categories, excluding liabilities, on the balance sheet at the end of the relevant reporting period.



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