



Response to European Commission's consultation paper *Towards a code of conduct for responsible nanoscience and nanotechnologies research*

This document represents the view of the four founding partners of the Responsible Nano Code initiative¹: Insight investment, the Nanotechnology Industries Association (NIA), the Nanotechnology Knowledge Transfer Network and the Royal Society.²

The founding partners welcome the opportunity to respond to the European Commission's paper *Towards a code of conduct for responsible nanosciences and nanotechnologies research*. This submission outlines:

- The aims of the Nano Code initiative
- The remit of the Code
- Development of the Code
- Monitoring and evaluation
- Relationship with the European Commission's proposed code.

We hope that the Nano Code will complement the Commission's proposed code, which will take the form of a European Commission Recommendation, and would be interested in discussing the possibility of the Nano Code forming part of the Recommendation.

1 Aim of code

Our aim is to develop a voluntary, principles-based Code, which is appropriate for adoption by organisations of all sizes involved in the research, development, manufacturing and retailing of products using nanotechnologies. These organisations may include:

- Companies of all sizes manufacturing products using nanotechnologies – whether their focus is business-to-business or the end consumer
- Retailers of products using nanotechnologies
- Companies and commercial partnerships researching or manufacturing nanomaterials
- Research laboratories
- Universities

¹ For additional information on the initiative, please visit: www.responsiblenanocode.org. For information on the founding partners: <http://www.responsiblenanocode.org/pages/participants/details.htm#rsa>

² It does not necessarily represent the views of the members of the Working Group established by the founding partners to develop a code to encourage the responsible development of nanotechnologies.

It is our intention to establish a consensus of what constitutes good practice and provide guidance on what organisations can do to demonstrate responsible governance of this dynamic area of technology.

We aim to achieve this through an inclusive process – by engaging with companies, scientists, governments, NGOs and labour organisations

The Responsible Nano Code aims to stimulate organisations to consider all aspects of their involvement with nanotechnologies, including the broader social and ethical issues.

We believe that this potentially powerful set of enabling technologies could potentially deliver significant health, environmental, social and economic benefits. We believe that this Code will play an important role in helping organisations to develop nanotechnologies responsibly, helping to ensure that this vision is realised.

It is important to stress that we do not see this Code as in any way supplanting, displacing or otherwise subverting the evolving regulatory processes. The Code is designed to provide guidance on best practice for organisations during the transitional period while the appropriate national and international regulatory frameworks are being evaluated and, if necessary, developed, and to complement any existing regulation. We also believe that its broad remit - the Principles are relevant for organisations involved throughout the lifecycle of nano-enabled products – will give it relevance even after any regulation is introduced.

2 Remit of the code

It is intended that the voluntary Code should provide strategic guidance on the governance of nanotechnology, rather than detailed recommendations on corporate behaviours and performance. The Code is designed to provide clarity on the strategic issues that organisations need to address and offers potential indicators of good practice to guide their responsible behaviour in the most important areas.

The Code is aimed at the Boards or governing bodies of organisations. The Principles embodied in the Code should be promulgated throughout the organisation and should guide operational decisions. It is not designed to be a prescriptive ‘management systems’ code, which focuses on the operational processes, though clearly the decisions that are sanctioned at the highest level in relation to nanotechnology governance will be delivered at an operational level.

Why a ‘principles-based’ Code?

We have chosen this type of high level ‘principles-based’ code for a number of reasons:

1. To focus the attention at the most senior level (where important strategic decisions are made) on the issues associated with nanotechnologies, because there is uncertainty over the potential environmental, health and safety (EHS) risks of some nanoscale materials.
2. Because nanotechnologies are used in a diverse range of applications and by a wide range of organisations, we aim to produce a Code that is applicable to all types of organisation, from those

involved in research through manufacturers of nanomaterials, those developing consumer or business-to-business products and consumer retailers.

3. We intend to create a Code that organisations with widely differing management models can adopt. We would not wish, at this early stage in the evolution of nanotechnologies, to prescribe detailed behaviours where there is uncertainty regarding the most appropriate action at present.

Why a 'Comply or Explain' governance approach?

We are proposing a 'comply or explain' approach to compliance through which organisations will be encouraged to demonstrate their adherence to the Principles of the Code. While this is normally used in the arena of Corporate Governance we believe that it is also an appropriate vehicle for compliance in the case of nanotechnologies.

Organisations adopting the Code are asked to report each year on what steps they have taken to implement the Code, and if they haven't implemented particular aspects, to clearly explain why.

This may take the form of information in annual reports or statements, company social reports, or specific reporting on an organisation's website.

We are mindful that some of the Principles will have more relevance to certain organisations than others. While the emphasis may vary in different types of organisation, we envisage all of the Principles requiring commentary.

3 Development of the code

In creating the Working Group to develop this Code of Conduct, the Founding Partners sought to involve experts from a range of stakeholders, including representatives from businesses, non-governmental organisations and academics. The membership of the Working Group is listed in annex A.

The range of countries and stakeholders represented on the Working Group were limited in order to maintain a group size that is able to develop a workable code in a realistic, though ambitious, timeframe. However, the initiative will include an extensive consultation period that will aim to obtain input from a wide range of national and international organisations and individuals with a stake or interest in nanotechnologies. This will be achieved in the following ways:

- **One-to-One meetings** – The secretariat and founding partners will meet with over 20 multi-national businesses, international NGOs and civil society and government and regulators
- **Consultation Partners** - Organisations in Europe, the US and Asia have kindly offered to host events and disseminate the Code to their contacts.
- **Email consultation** – The consultation document will be sent to over 500 organisations and individuals involved with nanotechnologies, including those targeted by the Code together with national and international governments,

international bodies, ngos, civil society organisations and those involved with public dialogue and corporate and scientific accountability.

- **Open Call for Comment-** A media announcement will be made to promote an open Call for Comment

The multi-stakeholder approach to the development of a draft code, followed by wide and open consultation should result in a workable, credible code that organisations will be keen to adopt.

4 Monitoring and evaluation

Monitoring whether signatories have published information on how they have complied with the code, and evaluating this information against the codes provisions will be essential part of ensuring the Nano Code is a useful governance tool. The Working Group will be considering the best way to monitor and evaluate organisations compliance to the code and our consultation will seek stakeholders' views on effective monitoring and evaluation mechanisms.

5 Relationship with the European Commission's proposed code

The Commission's proposed code of conduct is aimed at all involved in nanoscience or nanotechnology research (including Governments, industry, universities, funding organisations, researchers and other interested parties.) It is therefore likely to be broader than our code, which is aimed at the governing board of organisations, and particularly businesses, involved in **the research, development, manufacturing and retailing of products using nanotechnologies**. We hope that our code would complement the Commission's code, which will take the form of a European Commission Recommendation, and would be very interested in discussing the possibility of it forming part of the Recommendation. Our code will be an important governance tool and the Recommendation could suggest organisations adopt it to practically demonstrate that they are developing nanotechnologies in a responsible manner.

One of the Nano Code's strengths is the involvement of a range of stakeholders at the centre of the process, as well as the wide ranging, international consultation. We expect the final code to be relevant to national and international organisations, both large and small, in most countries and to be credible with most stakeholders.

The Nano Code consultation document will be sent to the Commission and we hope to meet with the Commission to discuss in further detail how our code might complement the Commission's proposed code.

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Annex A: Nano Code Working Group membership

Chair	Lord John Selborne KBE FRS		
Royal Society	Dr Nick Green	Team Leader (Biosciences, Int Security & New & Emerging Tech)	Royal Society
Insight Investment	Ms Rachel Crossley	Director, Investor Responsibility	Insight Investment
NIA	Dr Steffi Friedrichs	Director	NIA
Nanotechnology KTN	Dr Mike Pitkethly	CEO	Nanotechnology KTN
Secretariat	Ms Hilary Sutcliffe	Director	Responsible Futures
Business	Mr Chris Wilson	External Communications Manager	BASF
	Dr Charles-Francois Gaudefroy (Ms Truus Huisman)	Head of Technical Affairs External Affairs Director EU)	Unilever Unilever
	Dr Benjamin Gannon	Exec Director Gov Affairs – EU	Johnson & Johnson
	Dr Russell Clarke	Commercial Manager	Thomas Swan
	Dr Barry Park	COO	Oxonica
	Dr Peter Bishop Dr Sally Jones	Research Manager Public Relations Manager	Johnson Matthey
	Dr Anthony Dagger	Research Scientist	Smith & Nephew
	Dr Graeme Howling	Project Manager - Biomaterials	Smith & Nephew
	Stuart Challenor	Trading Law & Technical Mngr	Tesco

	(Ms Deborah Hayeems)	(Corporate Governance Mngr)	Tesco
Academic	Dr Rob Aitken	Director of Research Development	Institute of Occupational Medicine
	Prof Vicki Stone	Director of Toxicology	Napier Universityn Edinburgh
	Prof Richard Jones FRS	Professor of Physics	University of Sheffield
	Prof Nick Pidgeon	Professor of Applied Psychology	University of Cardiff
NGOs and other organsations	Ms Sue Davies	Chief Policy Advisor	Which?
	Dr David Grimshaw	International Team Leader – Nanotechnologies	Practical Action
	Mr Frank Barry	Representative	Amicus