HOUSE OF LORDS

Library Note

Corporate Sector: Rights and Responsibilities

On 8 December 2016, the House of Lords will debate the following motion, tabled by Lord Hodgson of Astley Abbotts (Conservative):

> To move that this House takes note of the case for maintaining the balance between rights and responsibilities in the corporate sector.

The term 'corporate sector' is used to describe that part of the UK economy which is made up of private sector companies. The total value of shares for companies on the FTSE 100, domiciled in the UK, in December 2014 was £1,727 billion. The UK private sector provides employment for over 26 million people, the majority of the UK work force. As such, the action of the corporate sector has a significant impact on society as a whole, in terms of economic growth, and employment.

The role of the corporate sector in society has come under increased scrutiny since the 2008 financial crisis, and events such as the recent BHS pensions crisis and the Libor fixing scandal. While public opinion is positive towards businesses overall, levels of trust in the managers of big businesses is negative. When asked about what their areas of concern were, the public stated that they were concerned about issues including corporate tax avoidance and executive pay. Research by YouGov also found that, while business leaders were aware of some negative public attitudes towards UK businesses, there was disagreement about how business might best respond.

The role of government in encouraging the corporate sector to act in a responsible way has taken a variety of different forms. Both Conservative and Labour governments have sought to involve the corporate sector in a number of types of voluntary or partially voluntary activities. Governments have also sort to define corporate responsibility through legislation. Under the Companies Act 2006, directors of companies have a duty to behave in the interests of their shareholders, and to have regard for other issues such as long-term sustainability, the impact of decisions on employees and their impact on the environment.

On 29 November 2016, the Department for Business, Energy and Industrial Strategy published a green paper entitled *Corporate Governance Reform*. This included proposals intended to: increase shareholder influence over executive pay; increase the influence of employees, customers and suppliers in corporate decision-making; and extend existing governance rules to apply to large privately held companies. The Labour Party, the Scottish National Party and the Liberal Democrats have criticised the proposals, arguing that they do not go far enough in improving the corporate governance system in the UK.

Edward Scott
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1. UK Corporate Sector

1.1 What Constitutes the Corporate Sector?

The term 'corporate sector' is used to describe that part of the UK economy which is made up of private sector companies.[1] Companies House states that a company is a legal incorporated entity:

> […] with a separate identity from those who own or run it. The vast majority of companies are limited liability companies where the liability of the members is limited by shares or by guarantee.[2]

Companies in the UK must also be registered with Companies House.[3] Sole traders and business partnerships are therefore excluded from this definition.

There are various legal forms which companies may take, including those which can trade shares publicly and those that are privately owned. Companies House provide the following summary of the four types of company:

- **Private company limited by shares:** This company has a share capital and the liability of each member is limited to the amount, if any, unpaid on their shares. A private company cannot offer its shares for sale to the general public.

- **Private company limited by guarantee:** This company does not have a share capital and its members are guarantors rather than shareholders. The members' liability is limited to the amount they agree to contribute to the company's assets if it is wound up.

- **Private unlimited company:** An unlimited company may or may not have a share capital but there is no limit to the members' liability.

- **Public limited company:** A public company has a share capital and limits the liability of each member to the amount unpaid on their shares. It may offer its shares for sale to the general public and may be quoted on the stock exchange.[4]

Private Sector Corporation

This briefing focuses primarily on companies. However, some corporations also exist outside the corporate sector, as it is generally defined. Corporations include, for example, local government authorities, charitable organisations and incorporated members' clubs.[5] Some public sector organisations, such as British Broadcasting Corporation (BBC) and the Office of Communications (Ofcom), are also corporations. Such bodies may employ a large number of people and contribute significantly to the UK economy. In June 2016, 179,000 people were

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[1] Cambridge Business English Dictionary, 'Corporate Sector', accessed 28 November 2016.
[2] Companies House, *Incorporation and Names*, July 2016, p 4.
[3] Companies House, 'Companies House Official Statistics: Definitions to Accompany Statistical Releases—Companies and Businesses', 24 August 2016.
[4] ibid.
[5] *Halsbury's Laws of England*, 2010, vol 24, para 306.

employed by public corporations.[6] While these are not considered as being part of the corporate sector, many of the issues concerning corporate responsibility, such as governance and executive pay, can also apply to these organisations.

1.2 Size, Composition and Ownership of UK Corporate Sector

The UK private sector provides employment for over 26 million people, compared to the public sector which employs over 5 million.[7] Businesses with the highest profile in the corporate sector tend to be the larger employers. However, a significant part of the private sector as a whole is made up of small businesses. The vast majority of UK businesses, 99.9 percent, are small or medium sized enterprises (SMEs), those employing 249 people or fewer.[8] SMEs accounted for 60 percent of all private sector employment and their annual turnover constituted £1.8 trillion, 47 percent of private sector turnover.[9] Larger employers accounted for 40 percent of private sector employment, with a turnover of £2 trillion.

Corporate businesses constitute a large proportion of UK enterprises. According to the Office for National Statistics, companies and public corporations combined represented 68.8 percent of the total 2.55 million businesses registered for VAT and/or PAYE in the UK in 2016.[10] However, not all of these employ multiple people, with a significant proportion of these corporations only consisting of one employee. Single employee limited companies, where the director is the only employee, constituted 46.5 percent of UK corporate businesses.

The Department for Business, Energy and Industrial Strategy (BEIS) publishes separate figures for UK private sector businesses, including those not registered for VAT and/or PAYE. BEIS estimate that 32 percent of private sector businesses in the UK were actively trading companies (1.8 million).[11] A remaining 60 percent were sole proprietors and 8 percent were ordinary partnerships. Of these 1.8 million companies, 935,000 employed more than one person. A majority of sole proprietors and ordinary partnerships were also employers.

FTSE 100

The FTSE 100 companies are the 100 highest publically trading companies on the London Stock Exchange. As such, they represent some of the largest companies in the UK corporate sector in terms of turn-over and employment. Not all of the companies in the index are domiciled in the UK, and of those that are, some conduct the majority of their business operations overseas.[12] The total value of shares for companies on the FTSE 100, domiciled in the UK, in December 2014, was £1,727 billion.[13] The FTSE 100 share index fell by around 40 percent during the 2008 financial crisis, however it recovered to its pre-crisis level in December 2014.[14]

[6] Office for National Statistics, 'Public Sector Employment, UK: June 2016', 14 September 2016.
[7] ibid.
[8] Department for Business, Energy and Industrial Strategy, *Business Population Estimates for the UK and Regions 2016*, 13 October 2016, p 1.
[9] ibid.
[10] Office for National Statistics, 'UK Business: Activity, Size and Location—2016', 4 October 2016.
[11] Department for Business, Energy and Industrial Strategy, *Business Population Estimates for the UK and Regions 2016*, 13 October 2016, p 4.
[12] Office for National Statistics, 'Ownership of UK Quoted Shares: 2014', 2 September 2015.
[13] ibid.
[14] ibid.

Shareholders in UK Firms

The Office for National Statistics (ONS) publish information on the shareholders of UK firms, ie those listed on the London Stock Exchange and domiciled in the UK.[15] The ONS estimate that 54 percent of shares in UK firms, in terms of value, is owned by overseas investors. This proportion has risen from 31 percent since 1998, which the ONS ascribes to the increased ease with which overseas residents are able to invest in UK quoted shares, including through the increased use of electronic trading. The proportion of shares held by UK individuals was 11.9 percent: this proportion has declined since 1963, when it stood at 54 percent. Other types of beneficial owners include unit trusts (9 percent), other financial institutions (7.1 percent), insurance companies (5.9 percent), pension funds (3 percent) and the public sector (2.9 percent). Further statistics on the UK corporate sector are provided in the House of Commons Library briefing *Business Statistics*.[16]

2. Corporate Responsibility and Corporate Governance

The relationship between business and society, and the accountability of those in charge of large financial interests, has been the subject of an ongoing debate since at least the beginnings of modern democracy.[17] Key to this debate is whether the priority of corporations should be to make decisions based on maximising shareholder profit or on the basis of what might be beneficial to society as a whole. For example, the economist Milton Friedman argued that it was the sole responsibility of business executives to follow the wishes of their shareholders, while obeying the laws and ethics of society.[18] Critics of this theory, such as the writer Naomi Klein, have argued that has led to an ideological aversion to regulating the corporate sector, which has destabilised the global economy.[19]

Following the 2008 financial crisis, the role that corporations play in society has been the subject of increased scrutiny.[20] The chair of the Parliamentary Commission on Banking Standards, Andrew Tyrie, following publication of the Commission's final report in 2013, *Changing Banking for Good*, identified a "misalignment of incentives" in the banking sector which had led, in part, to the financial crisis.[21] Frank Bold and the Cass Business School, in their 2016 study *Corporate Governance for a Changing World*, argued that, while it was broadly accepted that corporations need to be governed "with respect for society and the environment", the maximisation of shareholder value had been the central focus of corporate governance, both in theory and in practice.[22] This, they argued, led to excessive risk taking at the expense of corporate resilience and long term sustainable value.

[15] Office for National Statistics, 'Ownership of UK Quoted Shares: 2014', 2 September 2015.
[16] House of Commons Library, *Business Statistics*, 23 November 2016.
[17] *Economist* (£), 'Profit and the Public Good', 20 January 2005.
[18] T Carson, 'Friedman's Theory of Corporate Social Responsibility', *Business and Professional Ethics Journal*, 1993, vol 12 no 1, pp 3–32.
[19] Naomi Klein, 'Beware the Chicago Boys', *Guardian*, 14 June 2008.
[20] Frank Bold and Cass Business School, *Corporate Governance for a Changing World*, 2016, p 5.
[21] Parliamentary Commission on Banking Standards, 'Banking Commission Publishes Report on Changing Banking for Good', 19 June 2013.
[22] ibid, p 1.

Further information on the scrutiny of corporate responsibility and corporate governance following the 2008 financial crisis, and recent controversies in the corporate sector, are provided in the following House of Commons Library briefings:

- House of Commons Library, *Five Years of Bank Reform*, 17 March 2015
- House of Commons Library, *British Homes Stores*, 18 October 2016
- House of Commons Library, *LIBOR, Public Inquiries and FCA Disciplinary Powers*, 26 July 2014

3. Existing Corporate Governance Rules

In the context of the debate over what should be the right balance of corporate rights and responsibilities, different UK governments have sort to influence corporate behaviours through changes to corporate governance rules and through encouraging businesses to engage in corporate responsibility voluntarily.

Government has a role in how companies should act through the corporate governance rules. In UK law, directors of companies not only have a duty to behave in the interests of their shareholders, but must also have regard to other issues. Section 172 of the Companies Act 2006 states:

> (1) 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 benefit of its members as a whole, and in doing so have regard (amongst other matters) to—
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> (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.
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> (2) Where or to the extent that the purposes of the company consist of or include purposes other than the benefit of its members, subsection (1) has effect as if the reference to promoting the success of the company for the benefit of its members were to achieving those purposes.

(3) The duty imposed by this section has effect subject to any enactment or rule of law requiring directors, in certain circumstances, to consider or act in the interests of creditors of the company.[23]

The UK has a unitary board system, requiring members of a board of directors to be collectively responsible for the decisions of that board.[24] Since 1992, standards of good governance for boards have been set out in the Financial Reporting Council's *UK Corporate Governance Code*, the most recent edition of which was published in April 2016.[25] The Financial Reporting Council require all companies with a premium listing of equity shares in the UK to report how they have applied the code in their annual report and accounts.[26]

The main principles of the code include that boards provide effective leadership to the company, that they must be accountable, and that the pay received by directors should be "designed to promote the long-term success of the company".[27] The code also requires the board of directors of a company to enter into a "dialogue with shareholders based on the mutual understanding" of the company's objectives.[28] The Financial Reporting Council also publish a *Stewardship Code*, last updated in September 2012, which sets out the principles governing the way in which boards should act in the interests of investors and the way that decisions are communicated.[29]

4. Voluntary Corporate Responsibility

'Corporate responsibility' can also be defined in terms of activity beyond that which is required by corporate governance rules. In June 2013, for the purposes of a consultation to ask for views on corporate responsibility in the UK, the then Department for Business, Innovation and Skills defined this form of corporate responsibility in the following terms:

> Corporate responsibility is the voluntary action businesses take over and above legal requirements to manage and enhance economic, environmental and societal impacts. It is about being a responsible business and as a part of an integrated and strategic approach creates shared value for business and society. The exact approach varies and is influenced by factors such as business size, sector and locality. In an increasingly volatile, uncertain, complex and ambiguous world, many UK based companies are leading the way.[30]

The relationship between government and the corporate sector has developed over time as governments of different parties have sought to increase the involvement of the corporate sector in a number different voluntary or partially voluntary activities. Writing in 2013, Dr Anja Schaefer, Senior Lecturer in Management in the Department for Public Leadership and Social Enterprise at the Open University Business School, traced the development of modern

[23] Companies Act 2006, s 172(1)–(3).
[24] Department for Business, Energy and Industrial Strategy, *Corporate Governance Reform*, 29 November 2016.
[25] Financial Reporting Council, 'Corporate Governance and Stewardship', accessed 30 November 2016.
[26] Financial Reporting Council, 'UK Corporate Governance Code', accessed 30 November 2016.
[27] ibid.
[28] ibid.
[29] ibid.
[30] Department for Business, Innovation and Skills, *Corporate Responsibility: Good for Business and Society—Government Response to Call for Views on Corporate Responsibility*, April 2014, p 3.

corporate responsibility in the UK.[31] She stated that the modern approach to corporate responsibility could be traced back to the rise in unemployment and financial stress of the late 1970s and early 1980s.

Dr Schaefer stated that UK governments had been keen to encourage corporate responsibility for two reasons: the desire to involve businesses in improving the public-good and to avoid the need for more coercive regulation of the corporate sector.[32] Government policy has taken a number of different forms including: entering into partnerships with companies, business-led organisations and civil society organisations; and facilitating corporate responsibility, including through corporation tax exemptions for taking on and training the unemployed.[33]

During the Government of Margaret Thatcher, for example, business initiatives were encouraged, focused on the issues of high unemployment and the state of the inner cities.[34] During the Labour Governments of Tony Blair and Gordon Brown, the corporate responsibility agenda included involvement of the private sector in new areas such as education. This included the creation of a ministerial post with responsibility for corporate social responsibility. Dr Schaefer argued that it was too early to predict what the longer term impact of public spending cuts would be on future initiatives in this area, following the 2008 financial crisis.[35]

Corporate Responsibility: Good for Business and Society

Respondents to the Department for Business, Innovation and Skills' 2013 consultation on corporate responsibility described how there was often misunderstanding between business and wider society when it came to involvement in voluntary activity:

> Respondents identified a disconnection between business and society, particularly at a local level which, if resolved, would be a powerful force for good. On the one hand, businesses did not know or understand the social issues that existed and how they might help. On the other hand local communities, and in particular charities, did not articulate the issues relative to them well enough for businesses to at least consider getting involved.[36]

The consultation received a number of different responses expressing views as to what the role of government should be in supporting corporate responsibility, with a split between those who were for and against the introduction of further legislation. The Department stated:

> Of those that supported legislation, the positions put forward were either in connection with changes to existing legislation (particularly the Companies Act and Public Services (Social Value) Act). Or new legislation to condition certain behaviours including: enforcing ethical standards (specifically on modern slavery, trafficking or abusive child labour within supply chains); enforcing companies to adopt effective and transparent

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[31] Dr Anja Schaefer, 'Sector-Specific Corporate Responsibility in the United Kingdom' in T Beschorner, T Hajduk, and S Simeonov (eds), *Corporate Responsibility in Europe: Government Involvement in Sector-Specific Initiatives*, 2013, pp 241–62.
[32] ibid, p 242.
[33] ibid, p 243.
[34] ibid.
[35] ibid, p 258.
[36] Department for Business, Innovation and Skills, *Corporate Responsibility: Good for Business and Society—Government Response to Call for Views on Corporate Responsibility*, April 2014, p 6.

supply chain management practices; and compelling companies to conduct studies of the behaviour of chosen suppliers before contracting and during association.[37]

Following the consultation, the Modern Slavery Bill was introduced and received royal assent on 26 March 2015.

5. Public Opinion

The Institute for Business Ethics commission an annual poll, conducted by IPSOS Mori, of public views of business ethics in Britain. In its 2015 poll, it found that a majority of people—59 percent—believed that British business acted in an ethical way, while 39 percent believed it acted in an unethical way.[38] The issues of corporate behaviour that the public identified as being of most concern, in order of seriousness were:

- Corporate tax avoidance (34 percent of respondents)
- Executive pay (25 percent)
- Exploitative labour (20 percent)
- Employees being able to speak out about company wrongdoing (19 percent)
- Discrimination (18 percent)

The Institute for Business Ethics noted that there had been a recent increase amongst those surveyed of concern regarding exploitative labour.[39]

In 2014, a YouGov poll also found that the majority of the public viewed UK businesses in the round in a positive way.[40] A majority, 61 percent, believed that "overall business [was] a force for good", as opposed to 12 percent who agreed with the proposal that business was "destructive" overall. However, the level of trust in the managers of big businesses was low, with a net negative rating of -56 percent, compared to managers of small businesses who had a net positive rating of 8 percent.

Response from Companies to Public Opinion

Alongside its 2014 poll of public opinion, YouGov also published the findings of a survey of 21 figures in business regarding how they thought UK businesses were viewed by the public.[41] YouGov found that those interviewed were conscious of negative public attitudes towards UK businesses. When asked about the reasons for this deterioration of trust, views expressed included that levels of pay in the corporate sector had been too high and that business leaders had been complacent. YouGov concluded that, while there was broad agreement that businesses had to play a role in improving society, there was less agreement about the means by which this might be achieved. While some of those interviewed argued that businesses should be taking a more activist role, others argued that the best role was through serving their customers better.

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[37] Department for Business, Innovation and Skills, *Corporate Responsibility: Good for Business and Society—Government Response to Call for Views on Corporate Responsibility*, April 2014, p 8.
[38] Institute for Business Ethics, *Attitudes of the British Public to Business Ethics 2015*, 10 December 2015, p 1.
[39] ibid, p 4.
[40] YouGov, 'Public Opinion on Business and Business Attitudes to Public Opinion', 22 October 2014.
[41] ibid.

6. Corporate Governance: Business, Energy, and Industrial Strategy Committee

In September 2016, the House of Commons Business, Energy, and Industrial Strategy Committee launched an inquiry into corporate governance.[42] The aim of the inquiry was to consider executive pay, directors' duties, and the composition of boardrooms, including worker representation and the gender balance among the holders of executive positions. On 15 November 2016, the Committee heard evidence from witnesses including representatives of the Trades Union Congress, Institute of Directors, and the Financial Reporting Council. During this session, there was a discussion regarding how corporate boards might influence the culture within their organisations to improve corporate responsibility and social value.[43] Oliver Parry, head of corporate governance at the Institute of Directors, told the Committee that within the FTSE 100, prior to the banking crisis, a "very compliance-driven mind-set" had developed, which he characterised as follows:

> You have a code system, you have mountains of regulations on companies—not just banks but all FTSE 100 companies have to deal with. You get the impression there is a lot of box ticking going on.[44]

He argued that that the power to improve the culture of an organisation lay primarily with shareholders, but that boards should also act as the drivers of cultural change.

7. Government Policy since July 2016

The role of the UK corporate sector in the economy and in society more widely has been one of the issues raised by Theresa May since becoming Prime Minister in July 2016. During her speech to the 2016 Conservative Party conference, Mrs May described what she believed the Government's relationship with the corporate sector should be:

> [It's time] to reject the ideological templates provided by the socialist left and the libertarian right and to embrace a new centre ground in which government steps up—and not back—to act on behalf of us all.[45]

She described the role of the Government in the following terms:

> Supporting free markets, but stepping in to repair them when they aren't working as they should. Encouraging business and supporting free trade, but not accepting one set of rules for some and another for everyone else.[46]

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[42] House of Commons Business, Energy, and Industrial Strategy Committee, 'Corporate Governance Inquiry Launched', 16 September 2016. At the time of writing, this inquiry is ongoing and the Committee's report has yet to be published.
[43] Business, Energy and Industrial Strategy Committee, *Oral evidence: Corporate Governance, 15 November 2016*, HC 702, 18 November 2016, Q4.
[44] ibid, Q5.
[45] Conservative Party, 'Prime Minister: The Good That Government Can Do', 5 October 2016.
[46] ibid.

Reforms to Corporate Governance

Prior to becoming Prime Minister, Theresa May stated during the Conservative Party leadership campaign that she would seek to reform corporate governance. She commented:

> I want to see changes in the way that big business is governed. The people who run big businesses are supposed to be accountable to outsiders, to non-executive directors, who are supposed to ask the difficult questions, think about the long-term and defend the interests of shareholders. In practice, they are drawn from the same, narrow social and professional circles as the executive team and—as we have seen time and time again—the scrutiny they provide is just not good enough. So if I'm Prime Minister, we're going to change that system—and we're going to have not just consumers represented on company boards, but employees as well.

In her subsequent speech to the 2016 CBI annual conference, the Prime Minster stated that the Government would not advocate "mandating works councils, or the direct appointment of workers or trade union representatives on boards".[47]

Minister for Small Business, Consumers, and Corporate Responsibility

The Prime Minister has appointed a minister for corporate responsibility, Margot James, who's full title is Minister for Small Business, Consumers, and Corporate Responsibility. In her first speech on being appointed to this role, made on 18 October 2016, Margot James addressed the issue of low pay at the launch of a Resolution Foundation report on the issue.[48] During that speech, she outlined the changes to the law that the Government had enacted that were intended to "[build] an economy that worked for everyone". This included the introduction of the Government's National Living Wage and its policy of naming those companies who did not pay their employees accordingly.

Modern Business Models and Employment Practices

The Government has also launched a review of the impact of new business models, such as the so-called 'gig economy', where companies employ a large number of people without fixed term contracts. In October 2016, it was announced that a review, to be led by the chief executive of the Royal Society for the Encouragement of Arts, Manufactures and Commerce (RSA), Matthew Taylor, would consider the state of current employment practices in the UK and the extent to which they were keeping pace with modern business models.[49]

7.1 Consultation on Corporate Governance

On 29 November 2016, the Department for Business, Energy and Industrial Strategy published a green paper entitled *Corporate Governance Reform*. The Government stated that the consultation period for these proposals would be open until 17 February 2017.[50] In her forward

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[47] Christopher Williams, 'Theresa May Backtracks on Putting Workers on Company Boards', *Telegraph*, 21 November 2016.
[48] Department for Business, Energy and Industrial Strategy, 'Making Work Pay in a Modern Economy', 18 October 2016.
[49] Royal Society for the Encouragement of Arts, Manufactures and Commerce, 'Matthew Taylor to Lead Independent Review of Employment Practices in the Modern Economy', 1 October 2016.
[50] Department for Business, Energy and Industrial Strategy, 'Open Consultation: Corporate Governance Reform', 29 November 2016.

to the green paper, the Prime Minister stated that it was the objective of the Government to support businesses "that focus on long-term value creation and command public confidence and respect".[51] She wrote that this would be achieved through strengthening decision-making in the corporate sector by improving the system of checks and balances in place.

For the purposes of the consultation, the Government provided the following definition of the objectives of good corporate governance, which emphasised both the long term interests of the company, its shareholders and the wider interests of those with a direct interest in the company, described as 'stakeholders':

> The purpose of corporate governance is to facilitate effective, entrepreneurial and prudent management that can deliver the long-term success of a company. It involves a framework of legislation, codes and voluntary practices. A key element is protecting the interests of shareholders where they are distant from the directors running a company. It also involves having regard to the interests of employees, customers, suppliers and others with a direct interest in the performance of a company. Good corporate governance provides confidence that a company is being well run and supports better access to external finance and investment.[52]

The green paper included proposals for reform in three main areas: executive pay; decision making in boards; and the extension of corporate governance rules to some privately held companies.[53]

Executive Pay

One of the stated objectives of the consultation was increasing shareholder influence over executive pay and performance. Section 1 of the consultation included proposals summarised as follows:

- Changing shareholder voting and other rights concerning executive pay and performance.
- Encouraging institutional and retail investors to engage with the issue of executive pay, through using their existing shareholder rights.
- Making changes to the role of remuneration committees, currently set out in the Financial Reporting Council's *Corporate Governance Code*, including requiring these committees and their consultants to seek the views of shareholders and the workforce before preparing their pay policy.
- Requiring greater pay disclosure, including the options of requiring companies to report on the pay ratio of chief executive officers and the wider workforce, and disclosing information on the performance targets used for awarding annual bonuses.

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[51] Department for Business, Energy and Industrial Strategy, *Corporate Governance Reform*, 29 November 2016, p 2.
[52] ibid, p 10.
[53] ibid, pp 10–12.

- Making changes to long-term pay incentives plans currently provided to directors, so that they might better align to the long term interests of the company—such as extending the period before which share options might be awarded.

Decision Making in Boards

Section 2 of the green paper outlined measures intended to "strengthen the employee, customer and supplier voice", in corporate decision making.[54] This included the following proposals:

- Creating stakeholder advisory panels which would advise the company's board of directors.

- The appointment of designated non-executive directors, responsible for articulating the views of particular stakeholders.

- The appointment of individual stakeholder representatives to company boards.

- Making changes intended to strengthen existing reporting requirements, including those requiring companies to report the extent to which they have considered the views of different stakeholders.

Corporate Governance Rules for Privately Held Companies

In section 3 of the green paper, the Government proposed extending governance rules, currently in place for listed companies, to apply to some of the largest privately held companies and limited liability partnerships. These companies, the Government has argued, currently faced lower formal standards for corporate governance than many public companies.

7.2 Reaction

The General Secretary of the Trades Unions Congress (TUC), Frances O'Grady, criticised the green paper, arguing that the Government had backtracked over previous proposals for the representation of workers at board levels:

> This is not what Theresa May promised. Today's proposals are disappointing and will not do enough to shake-up corporate Britain. We need the voice of elected workers in the boardroom, rather than on advisory panels. The Prime Minister vowed to govern for working people. She should let them have a say where it really matters.[55]

On the day of the publication of the green paper, the TUC published the findings of a poll, which stated that 59 percent of the public supported the election of worker representatives onto the boards of large companies.[56]

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[54] Department for Business, Energy and Industrial Strategy, *Corporate Governance Reform*, 29 November 2016, pp 10–12.
[55] Trades Unions Congress, 'TUC Hits Out at "Disappointing" Plans to Tackle Corporate Misbehaviour', 29 November 2016.
[56] Trades Unions Congress, '6 in 10 People Support Elected Workers On Large Company Boards, New TUC Poll Reveals', 29 November 2016.

The Confederation of British Industry (CBI) said that it would work with the Government to enhance the UK's corporate governance framework.[57] It argued that the approach taken should be to "evolve" corporate governance, stating:

> The UK's approach to corporate governance is respected around the world. British firms know that great relationships with staff, customers and communities is the cornerstone of success. However, businesses agree that legitimate concerns exist and are determined that the unacceptable behaviour of the few should not tarnish the effectiveness of the many.[58]

7.3 Reaction in Westminster

House of Commons

In his statement in the House of Commons on the day of the launch of the Government's green paper, the Secretary of State for Business, Energy and Industrial Strategy, Greg Clark, described successful businesses as "the backbone" of the UK's society and economy, in terms of their contribution to employment, gross domestic product and through their contribution towards funding public services.[59] He said that the purpose of the consultation was to maintain Britain's global reputation for corporate governance. While he maintained that the Government was "pro-business", he said that the Government was also seeking to "hold business to a high standard". He also said that the consultation was necessary following the damage that had been done to this reputation by what he described as "the actions of a very small number of businesses".[60]

The Shadow Secretary of State for Business, Energy and Industrial Strategy, Clive Lewis, argued that the proposals in the consultation would not have a significant impact.[61] Responding to the proposals for reform to the corporate governance of privately held companies, Mr Lewis was sceptical as to what this might achieve. He said that he was not convinced that these proposals would have been adequate to prevent the pensions crisis at BHS, a private company. Mr Lewis said that, instead of reacting to high profile scandals, the Government instead should be focusing on the more endemic problems in corporate governance. He argued that the UK industry had seen "pitiful investment and productivity rates", as a result of short-termism in corporate decision making.

Speaking for the Scottish National Party, the Party's Westminster Group Leader on Energy and Climate Change, Callum McCaig, said that he gave a "cautious welcome" to the proposals outlined in the green paper, stating that the pay gap between executives and employees was too high and that companies should be more transparent about executive pay.[62] However, he argued that the Government needed to do more to improve diversity in the board room.

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[57] Confederation of British Industry, '[It's Right That Approaches to Governance Evolve](#)', 29 November 2016.
[58] ibid.
[59] HC *Hansard*, 29 November 2016, cols 1408–9.
[60] ibid.
[61] ibid, cols 1409–10.
[62] ibid, cols 1412–13.

House of Lords

Responding to the same statement in the House of Lords, the House of Lords Shadow Spokesperson for Business, Energy and Industrial Strategy, Lord Mendelsohn, argued that the proposals outlined by the Government were not substantial enough to have a practical impact.[63] He stated that it was necessary to begin a "long required process of change" to restore confidence lost in the corporate sector after the 2008 economic crisis. Responding to these comments for the Government, Government Whip, Lord Henley, refuted the suggestion from Lord Mendelsohn that the Government's proposals had been watered down to protect the status quo.[64]

The Liberal Democrat House of Lords Spokesperson for Business, Energy and Industrial Strategy, Lord Foster of Bath, welcomed some of the proposals outlined in the green paper, including the creation of dedicated non-executive directors responsible for representing small suppliers.[65] However, he criticised the Government for not supporting the inclusion of employees in elected positions on boards and the lack of any measures to improve diversity.

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[63] HL *Hansard*, 29 November 2016, cols 100–2.
[64] ibid, cols 104–5.
[65] ibid, cols 102–4.