

UNDERGRADUATE LAWS PROGRAMME BLOG

Video Transcript: UK Government publishes suggestions for new Corporate Governance reforms

Christopher Riley, Module Convenor for Company law

It's been 10 years since the UK's government last major reform of company law. That reform which culminated in the Companies Act 2006, promised to pay particular attention to the needs of smaller companies, under the government's 'Think Small First' approach.

Since 2006, attention has really returned to larger, listed companies. And that's hardly surprising I think. Those companies tend to be much more in the public eye. Behaviour in those companies tends to attract much more media and press attention and the government in consequence I think tends to feel under much greater pressure to be seen to be doing something.

On the 29th November, the Government published a 'Green Paper' on Corporate Governance Reform, and that 'Green Paper' set out a number of different options to reform key aspects of UK corporate governance. The government is now consulting on these proposals, and it may, depending upon the consultation process, bring forward a new legislation in 2017.

The proposals in the 'Green Paper', they really focus on two key areas. The first is this old topic of directors or executive pay. The concern with such pay is not simply that the amounts are often eye-wateringly large. But also that the amount of pay often bears little relationship to the company's own performance, and the gap between pay at the top, and average pay, seems to be growing ever larger.

The 'Green Paper' sets out a number of different options for reform. In recent years, much hope has been placed on giving shareholders a greater voice in terms of setting executive pay. And the 'Green Paper' makes further proposals to increase the still so-called shareholder 'Say on Pay'. I think perhaps the most interesting proposal is to give shareholders a direct vote which would be binding on the company on the pay awards of individual directors. Until now, any vote by shareholders with regard to actual pay awards has been only advisory on the company, not binding. The other suggestion that's made in the 'Green Paper' is to require companies to give more information about the gap between top pay and average pay, presumably in the hope that by forcing companies to be more transparent about that issue, that more companies will feel embarrassed and take steps to reduce the size of that gap.

The other topic which the 'Green Paper' focuses upon is increasing the voice of stakeholders – and especially of employees and of consumers – within the company. The 'Green Paper' notes that section 172 of the Companies Act already requires companies to take account of the interests of those stakeholder groups, and companies in their annual Strategic Reports, must say how they are implementing that section 172 requirement. But there is currently no requirement on companies for example to give stakeholders any say in choosing directors. Those who are in favour of giving stakeholders and especially employees a greater say in the choice of directors, suggest that doing that would help to achieve some key corporate governance objectives. It would probably encourage companies to adopt a more long term perspective in their management of the company. It would ensure that companies pay more than just lip service to the section 172 obligation to take account of stakeholders' interests. And if those worker directors also sat on companies'

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remuneration committees then those worker directors might be much more serious and much more effective in limiting the amount of executive pay.

The 'Green Paper' identifies a number of options in this regard. Some are quite modest, they include things like increasing the transparency requirements on companies, so that again they will have to give out more information about how they implement the section 172 obligation to take account of stakeholder interests, and also include the idea of nominating some existing non-executive directors on the board to act as the voice of certain stakeholder groups inside the company. But the most radical suggestion is to allow key stakeholder groups, perhaps only employees, to have a direct say in choosing a proportion of company directors.

I think all the various ideas in the 'Green Paper' are important, and they would all have a significant impact on UK corporate governance. But the different options for reform are often controversial, and they do confront some important powerful invested interests inside companies. Time will tell therefore how far the Government is prepared to force through any of these changes.