

**DIRECTORS' PAY**

Consultation on revised  
remuneration reporting  
regulations

JUNE 2012

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# Directors' pay: revised remuneration reporting regulations

On 20 June 2012, the Secretary of State for Business, Innovation and Skills announced a far reaching package of measures to address failings in the corporate governance framework for executive remuneration. This included:

- Giving shareholders more power through binding votes, so they can hold companies to account.
- Boosting transparency so that what people are paid is clear and easily understood.
- Working with responsible business and investors to promote good practice and ensure reforms have a lasting impact.

This consultation seeks views on the Government's proposals to increase transparency in pay reporting and in particular on draft regulations which will determine the content of directors' remuneration reports. These regulations will revoke and replace Schedule 8 of the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 (S.I. 2008/410). The draft regulations specify that the directors' remuneration report is to contain two distinct parts:

- A policy report setting out all elements of a company's remuneration policy and key factors that were taken into account in setting the policy. This part of the report will only be required when there is a shareholder vote on the policy.
- A report on how the policy was implemented in the past financial year, setting out actual payments to directors and details on the link between company performance and pay.

The purpose of this consultation is to seek evidence on the impact, costs and benefits of the proposals as well as detailed views on whether the draft regulations will achieve the Government's policy objectives.

This consultation is relevant to: companies and business organisations, executive and non-executive directors, shareholders and institutional investors, employees and employee representative organisations, academics, governance experts, lawyers and other advisors.

**Issued: 27 June 2012**

**Respond by: 26 September 2012**

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## Foreword from the Secretary of State



Since the Government published a discussion paper on executive remuneration last autumn, the debate surrounding this issue has grown in intensity. This has encouraged shareholders to become more engaged as owners of their companies and companies to engage constructively in the face of this opposition.

There is compelling evidence of a disconnect between pay and performance in large UK listed companies and the call for action has been loud and clear. Business leaders and investors now recognise the issues: that the link between pay and performance has grown weak; and the constant, ratcheting up of executive pay is unsustainable.

Last week, I announced a far-reaching package of measures to strengthen the hand of shareholders to challenge excessive pay. These are the most comprehensive reforms of directors' pay in a decade. By creating a more robust framework within which directors' pay is set, agreed and implemented, this package:

- restores a stronger, clearer link between pay and performance;
- reduces rewards for failure;
- promotes better engagement between companies and shareholders;
- and, overall, empowers shareholders to hold companies to account through binding votes.

This document outlines in more detail our proposals for increasing transparency on directors' pay. Shareholders need access to better quality information that is more clearly set out. Pay reports will in future need to explain clearly what directors are earning and how this links to company strategy and performance. This is essential for encouraging improved pay discipline.

I am inviting feedback on these proposals and I look forward to discussing them with businesses and shareholders over the coming weeks.

A handwritten signature in black ink, appearing to be 'Vince Cable'. The signature is fluid and cursive, with a large loop at the end.

**VINCE CABLE**

**SECRETARY OF STATE FOR BUSINESS, INNOVATION AND SKILLS**

## Executive Summary

1. Last autumn the Government published a discussion paper exploring the issues around directors' pay and inviting views on ways in which the link between pay and performance could be strengthened. The responses showed that business leaders, investors, academics, governance experts and a range of others now agree that there is a problem with rising executive pay which is not linked to performance.
2. While this is primarily an issue for companies and their shareholders, the Government has a role to provide an effective corporate governance framework for executive remuneration; particularly where shareholders lack the information and powers they need to hold companies to account. In June 2012, the Secretary of State for Business announced a package of measures to address these failings, including binding shareholder votes and greater transparency.
3. Through these reforms the Government is seeking to increase the power of shareholders and promote better, lasting, engagement between shareholders and companies to encourage a stronger link between pay and long term performance. More detail on these reforms is set out at paragraph 14. The Enterprise and Regulatory Reform Bill will give effect to these reforms.
4. This consultation seeks views on the Government's proposals to increase transparency in pay reporting and in particular on draft regulations which will determine the content of directors' remuneration reports. These regulations will revoke and replace Schedule 8 of the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 (S.I. 2008/410). The disclosures set out in this consultation are therefore instead of rather than additional to the existing disclosure requirements. The draft regulations provide that the remuneration report shall be in two parts:
  - **A policy report** setting out all elements of a company's remuneration policy and key factors that were taken into account in setting that policy. This part of the report will be required when there is a binding vote on policy.
  - **A report on how the policy was implemented**, setting out actual payments to directors and details on the link between company performance and pay for the financial year covered by the accounts.
5. These proposals are designed to facilitate greater engagement between shareholders and companies by giving shareholders access to better quality information that is more clearly set out. They need to be understood in the context of the Government's wider proposals for reform of the shareholder voting regime on pay.

## Policy Report

6. The Government will introduce a new binding vote on remuneration policy to empower shareholders and encourage improved dialogue with the companies they own. To facilitate this binding vote, the revised reporting regulations will provide for two distinct parts in the Directors' Remuneration Report. The policy part of the report will set out the company's forward looking policy on remuneration and potential payments. Once the policy is approved, the company will only be able to make payments within the

limits it allows. This report will be required when there is a binding vote on policy. The Government proposes that the policy part of the report includes the information set out below. This replaces rather than adds to the current reporting requirements.

- A table setting out the key elements of pay and supporting information, including how each element supports the achievement of the company's strategy, the potential value and performance metrics.
- Information on service contracts.
- Scenarios for what directors will get paid for performance that is above, on and below target.
- Information on the percentage change in profit, dividends and the overall spend on pay.
- The principles on which exit payments will be made.
- Material factors that have been taken into account when setting the pay policy, specifically employee pay and shareholder views.

## Implementation Report

7. There will continue to be an annual advisory vote on the actual payments made to directors. To facilitate this vote, the Government proposes that companies will continue to report annually on how the policy has been implemented in the previous year. The Government proposes that this part of the report includes the information set out below. This replaces rather than adds to the current reporting requirements.

- Single total figure of remuneration for each director.
- Detail of performance against metrics for long term incentives.
- Total pension entitlements (for defined benefit schemes).
- Exit payments made in year.
- Detail on variable pay awarded in year.
- Total shareholdings of directors.
- Chart comparing company performance and CEO pay.
- Information about who has advised the remuneration committee.
- Shareholder context.

## Best Practice

8. It is not Government's role to micromanage companies but instead to create a robust framework to ensure that active shareholder engagement is sustained over the long term. Lasting reform is dependent on both business and investors maintaining this activism and developing and adopting good practice on pay. The best companies and investors are already leading the way and acting as early adopters of these reforms.
9. There is a balance to be struck between investors' need for clear and specific information to hold companies to account and companies' requirement for flexibility so they can design and implement pay policies that suit their organisation. This is recognised by both business and shareholders.
10. The draft regulations therefore provide a framework within which companies and shareholders can set, agree and implement pay policy. They will need to be supplemented by clear guidance on the level of detail and type of information that should be reported. The Government believes that this should be jointly agreed by the business and investor communities and should act as the gold standard of remuneration reporting. The guidance should be in place before these proposals take effect.



# 1. Background

## Government proposals on directors' pay

11. Directors' remuneration that is well structured, clearly linked to the strategic objectives of a company, and which rewards directors who contribute to the long-term success of that company, is important in promoting business stability and growth. But pay policies which do not appropriately link directors' remuneration to company strategy and performance have a potential economic cost through diminished shareholder returns, weakened corporate governance and reduced public confidence in the corporate sector.
12. Over the last decade, directors' pay in the UK's largest listed companies has quadrupled with no clear link to company performance.<sup>1</sup> Top pay appears to go up when performance is good, but there is comparatively less elasticity downwards when performance is average or poor. As a result, average levels of executive pay have ratcheted upwards.<sup>2</sup>
13. The Government has consulted extensively on the issues around directors' pay<sup>3</sup> inviting views on ways in which the link between pay and performance could be strengthened and how to improve engagement between shareholders and companies. Business leaders, investors, academics, and governance experts now agree that there is a problem with rising executive pay which is not linked to performance.<sup>4</sup>
14. While this is primarily an issue for companies and their shareholders, the Government has a role to provide an effective corporate governance framework for executive remuneration; particularly where shareholders lack the information and powers they need to hold companies to account. On 20 June 2012, the Secretary of State for Business, Innovation and Skills announced a package of measures to address these failings<sup>5</sup>:

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<sup>1</sup> The average total remuneration of FTSE100 CEOs has risen from an average of £1m to £4.2m for the period 1998-2010. Data from Manifest/ MM&K, The Executive Director Total Remuneration Survey 2011, May 2011, available at: <http://blog.manifest.co.uk>.

<sup>2</sup> Brian Bell and John Van Reenen, Firm Performance and Wages: Evidence from Across the Corporate Hierarchy (2011)

<sup>3</sup> BIS Executive Remuneration Discussion Paper, September 2011 [www.bis.gov.uk/Consultations/executive-remuneration-discussion-paper](http://www.bis.gov.uk/Consultations/executive-remuneration-discussion-paper); BIS The Future of Narrative Reporting, September 2011 [www.bis.gov.uk/Consultations/future-of-narrative-reporting-further-consultation?cat=closedawaitingresponse](http://www.bis.gov.uk/Consultations/future-of-narrative-reporting-further-consultation?cat=closedawaitingresponse); BIS Consultation on Enhanced Shareholder Voting Rights <http://www.bis.gov.uk/Consultations/executive-pay-shareholder-voting-rights?cat=closedawaitingresponse>

<sup>4</sup> BIS Executive Remuneration Discussion Paper, Summary of Responses [www.bis.gov.uk/assets/biscore/business-law/docs/e/12-564-executive-remuneration-discussion-paper-summary-responses.pdf](http://www.bis.gov.uk/assets/biscore/business-law/docs/e/12-564-executive-remuneration-discussion-paper-summary-responses.pdf)

<sup>5</sup> <http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm120620/debtext/120620-0001.htm#12062086000003>

- Shareholders will get a **binding vote on a company's pay policy including their approach to exit payments**. This will happen annually unless companies choose to leave their pay policy unchanged; in which case the vote will happen as a minimum every three years.
- A company will only be able to make payments within the limits that have been approved by a majority of shareholders.
- Shareholders will get, as now, an **annual advisory vote** on how the approved policy is being implemented, including actual sums paid in the previous year.
- If a company fails the advisory vote they will need to put the pay policy back to shareholders the following year for re-approval in a binding vote.
- In addition, the Government supports calls from stakeholders that **where a substantial minority of shareholders vote against, companies should have to respond** and say what they will do to address shareholder concerns.

## Policy objective

15. The Government believes that these measures will give shareholders more leverage on executive pay and encourage improved pay discipline. Shareholder empowerment lies at the heart of the UK's corporate governance framework and these reforms are consistent with that approach. They will enable shareholders to promote a stronger, clearer link between pay and performance in order to prevent rewards for mediocrity or failure, while still allowing for exceptional performance to be rewarded. Companies will be encouraged to be proactive in designing long term pay policy that is clearly linked to the company's strategy and which is acceptable to shareholders. Companies will respond appropriately to shareholder challenge on remuneration issues.

## Reporting of remuneration

16. Executive pay has been a matter of interest and concern to shareholders, the wider public and governments for more than two decades, as overall levels of remuneration have grown and the complexity of remuneration policies have increased. The way a company rewards its executives can have a major influence on the company's success in meeting its strategic objectives, and can have an impact on the company's reputation and its relationship with its shareholders and other stakeholders.
17. It is therefore important for public companies to provide clear and accessible information to shareholders about remuneration. Company law has, since 2002, required quoted companies<sup>6</sup> to produce a Directors' Remuneration Report. The current provisions on the content of the report are in Schedule 8 of the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008.

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<sup>6</sup> As defined in s.385 of the Companies Act

18. The requirement to report has led to improved transparency on pay; but over time remuneration reports have become increasingly lengthy and complex. This has made it difficult to identify the main facts and figures, which are often buried in a raft of other information, and adds to the time and cost required to assess remuneration and make comparisons across companies. Despite the length of these reports, they are often lacking in information which shareholders have said they would find helpful, particularly in relation to the link between pay and performance.
19. In its recent consultation on changes to the regime for company narrative reporting, the Government sought views on a series of proposals to make reporting on pay more transparent.<sup>7</sup> Respondents to this consultation felt that the disclosure of information on directors' pay, and in particular on its relationship with performance, is a key concern and is an area which can be significantly improved upon:

*"We need more transparency. We need more coherent and pared down remuneration reports, which do not blind shareholders with the science. Good regulation should require companies to make remuneration reports less dense and less confusing. [...] We agree that it would be helpful to have disclosure of a single figure of the total non-pensionable remuneration for each director."* - **Railpen Investments**

*"When directors' rewards are significantly more generous than those given to other employees, there must [be] a clear and solid explanation about the link between pay and performance; and, furthermore, there should be no reward for failure. Complex bonus structures and the lack of transparency around boardroom pay are part of the problem. If we are to make progress on executive remuneration, it is critical that boardrooms explain clearly how rewards are linked to performance and how that impacts shareholder value."* - **NAPF**

*"Improved transparency would also help underpin our robust system. Changes should include disclosure of a single aggregate figure for directors' taxable remuneration, explanation of the nature of performance measures and additional disclosure relating to remuneration consultants."* - **CBI**

20. These comments suggest that without access to better quality and more concise information about pay, particularly on the link to performance, shareholders find it difficult to hold companies to account. Ensuring access to clearer information should encourage and enable shareholders to play a more active role and help to facilitate the adoption of the new shareholder voting regime announced alongside this consultation.

## Proposal

21. Company law has, since 2002, required quoted companies to produce a Directors' Remuneration Report. Schedule 8 of the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008, sets out what companies are currently required to report on. The proposals set out in this consultation document are aimed at ensuring that companies' remuneration reports include clear information about the link between pay and performance that is easy to find. The proposed

<sup>7</sup> <http://www.bis.gov.uk/Consultations/future-of-narrative-reporting-further-consultation> and <http://www.bis.gov.uk/Consultations/the-future-of-narrative-reporting-a-consultation>

disclosure requirements set out in this consultation document replace rather than add to the current requirements.

22. The Government proposes that, in order to ensure greater transparency and facilitate the new shareholder voting regime, this report comprises two parts:
- **A policy report** setting out a forward looking policy on remuneration, including exit payments, and disclosure of material factors taken into account when setting pay policy. This part of the report will be subject to a binding vote and it will only be legally required when there is a shareholder vote (at a minimum this will happen every three years).
  - **A report on how the policy was implemented** in the past financial year. This part of the report will set out how the policy has been implemented in the reporting year, including actual payments made to directors set out as a single figure, exit payments made and disclosure of the link between company performance and pay. It will be required on an annual basis and will be subject to an advisory vote.
23. In order to further improve transparency and make it easier for shareholders to quickly find the key information on pay within a report, the Government proposes that the remuneration report is prefaced by a **statement to the shareholders from the Chairman of the Remuneration Committee** summarising the key messages on remuneration and the context in which decisions have been taken. In recognition of the fact that the relevant information will vary between companies and from year to year, the Government does not propose to prescribe in these regulations what this letter should cover. The Government notes that it is already good practice in many companies for the remuneration committee chairman to write a letter as a preface to the report. As a result, the Government does not envisage this additional requirement will place significant additional burdens on companies.
24. The Government's proposals for the information that should be included within each part of the report are set out in more detail below. The revised regulations will replace the existing disclosure requirements in their entirety rather than adding to what companies are currently required to report on. Therefore, these proposals focus specifically on making as clear and transparent as possible what companies are paying directors and how this supports company performance. Where possible, the Government has sought to refine or streamline the information required so that there is a very clear focus on the information that investors need. Much of this information is already provided by companies but is difficult for investors to find within lengthy remuneration reports. As a result, these proposals also consider how the information should be presented to make it as easy as possible to find and understand.
25. The Government notes that the structure of pay has become increasingly complex as companies have sought to pay a much larger proportion of remuneration in the form of variable and deferred pay, based on complex models. As long as this remains the case, it is likely that pay reports will remain lengthy and difficult to understand no matter how far remuneration reporting is simplified.
26. The draft regulations attached to this consultation document give effect to the Government's proposals to improve transparency in remuneration reporting. The

Government proposes that these draft regulations replace the existing Schedule 8 of the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008. The Government would welcome views from respondents to this consultation on how well these draft regulations give effect to the policy as set out in this document.

**Question 1: The Government seeks comments on how well the draft regulations attached at Annex B give effect to the policy set out in this consultation document.**

27. The Government recognises that there may be some transitional costs to companies in changing how they report on remuneration as a result of this consultation. However the Government does not believe that these will be significant as the majority of the information that companies will need to report as a result of this consultation is already readily available.

**Question 2: What costs will companies face in adjusting to these revised reporting regulations?**

**Best Practice**

28. It is not Government's role to micromanage companies but instead to create a robust framework to ensure that active shareholder engagement is sustained over the long term. Lasting reform is dependent on both business and investors maintaining this activism and developing and adopting good practice on pay. The best companies and investors are already leading the way and acting as early adopters of these reforms.

29. Responses to the narrative reporting consultation<sup>8</sup> highlighted that there is a balance to be struck between the need to ensure that investors have access to clear and specific information in sufficient detail to hold companies to account and the importance, recognised by both business and shareholders, of allowing companies sufficient flexibility to design and implement pay policies that suit their organisation.

30. In developing the proposals set out in this consultation, the Government has sought to strike a balance between these competing objectives. The draft regulations provide a framework within which companies and shareholders can set, agree and implement pay policy. They will need to be supplemented by clear guidance on the level of detail and type of information that should be reported. The Government believes that this should be jointly agreed by the business and investor communities and should act as the gold standard of remuneration reporting. The guidance should be in place before these proposals take effect in 2013.

31. Recognising that there may be a role for Government in facilitating the development of this guidance, this consultation proposes that Government continue to work closely with business and investor groups to develop clear guidance on the level of detail and type of information that should be reported.

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<sup>8</sup> <http://bis.gov.uk/assets/biscore/business-law/docs/f/12-588-future-of-narrative-reporting-government-response.pdf>

## Fit with wider narrative reporting obligations

32. In September 2011, the Government consulted on a new framework for narrative reporting that would improve the disclosure by companies of their strategy, risks and opportunities. As already announced, there was a great deal of support for the proposals<sup>9</sup>. The Government is currently considering all of the feedback received during that consultation and the subsequent workshops that were held. The Government is considering a route that will make legislative change only where necessary, alongside guidance, and will publish draft regulations in due course.
33. Within this context, the directors' remuneration report will remain a legally required standalone report. This does not preclude companies from including information about remuneration anywhere else in annual reports. Companies may continue to present their reports in a single document if they choose to.
34. The Government intends that all changes to the reporting framework should take place at the same time.

## Scope

35. Evidence shows that executive remuneration has risen fastest in the very largest companies – namely the FTSE 100 – although practice in the FTSE 250 has followed closely behind.<sup>10</sup> Consistent with the current regime, we propose that these measures should apply to all quoted companies. In line with the existing legislation, these measures will apply to the remuneration of all directors and will be most relevant for executive directors.<sup>11</sup>
36. The Government will work with the UK Listing Authority to consider whether the requirements of the Listing Rules need to be reviewed.
37. The Government proposes that these provisions take effect for companies whose reporting years end after October 2013.

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<sup>9</sup> <http://bis.gov.uk/assets/biscore/business-law/docs/f/12-588-future-of-narrative-reporting-government-response.pdf>

<sup>10</sup> Hutton Review of Fair Pay in the public sector, Interim Report, December 2010. Available at [www.hm-treasury.gov.uk/d/hutton\\_interim\\_report.pdf](http://www.hm-treasury.gov.uk/d/hutton_interim_report.pdf)

<sup>11</sup> The Government has consulted separately on proposals to improve transparency of remuneration below director level in financial services businesses specifically [www.hm-treasury.gov.uk/consult\\_merlin\\_remuneration\\_disclosure.htm](http://www.hm-treasury.gov.uk/consult_merlin_remuneration_disclosure.htm)



## 2. Policy Report

### Overview

38. The Government will introduce a new binding vote on remuneration policy to empower shareholders and encourage improved dialogue with the companies they own. To facilitate this binding vote, the revised reporting regulations will provide for two distinct parts in the Directors' Remuneration Report. The policy part of the report will set out the company's forward looking policy on remuneration and potential payments. Once the policy is approved, the company will only be able to make payments within the limits it allows. This report will be required when there is a binding vote on policy.
39. The Government proposes that the policy part of the report includes the information set out below. This replaces rather than adds to the current reporting requirements.

- A table setting out the key elements of pay and supporting information, including how each element supports the achievement of the company's strategy, the potential value and performance metrics.
- Information on service contracts.
- Scenarios for what directors will get paid for performance that is above, on and below target.
- Information on the percentage change in profit, dividends and the overall spend on pay.
- The principles on which exit payments will be made.
- Material factors that have been taken into account when setting the pay policy, specifically employee pay and shareholder views.

### Pay policy table

40. Responses to the Government's consultation on narrative reporting<sup>12</sup> suggest that companies do not consistently disclose information in an easily navigable format on how their pay policy supports company strategy and performance. These draft regulations therefore seek to address both the type of information that is included within a company's statement on remuneration policy and how it is presented. In order to make reports easier to navigate and to highlight the most important information, the Government proposes that the report includes a table setting out how the company structures pay and the policy for each element of that pay package. This table will include all elements of pay that any current or potential director is entitled to. The Government does not propose to prescribe the exact format of this table.

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<sup>12</sup> <http://bis.gov.uk/assets/biscore/business-law/docs/f/12-588-future-of-narrative-reporting-government-response.pdf>

41. The Government proposes that for each element of pay, the table will include the following information:

- **Purpose** - how it supports the company's short and long term strategic objectives.
- **Operation** – summary of how each element of pay operates including whether claw back<sup>13</sup> and malus<sup>14</sup> are possible.
- **Opportunity** - maximum potential value.
- **Performance metrics** - a summary of the performance metrics, the relative weighting of each, and the time period over which they are measured.
- **Changes to policy** – what decisions the committee has made about that element of pay for the future period and why.

42. These headings are designed to capture the most important elements of remuneration policy and are specifically focussed on giving shareholders a better understanding of how the policy as a whole supports the success of the company over the long term. The example at Annex A is indicative of the level and type of disclosure that the Government would expect to see. Those companies who currently adopt best practice are already disclosing information of this nature.

43. The Government believes that this approach provides a framework within which companies and shareholders can set and agree pay policy. In order to accommodate the fact that companies design their pay policy to suit their own business model and strategy, the Government does not propose to prescribe, beyond these headings, the types of pay or the specific disclosures that are required for each element of pay. It does however recognise that there are specific types of information that shareholders will expect to see within this table for each element of pay in order for the policy to be approved. For example, for defined benefit pension plans shareholders are likely to want to know the maximum pension value, accrual rates and retirement dates. Given that this part of the report will be subject to the binding vote, it is important that companies understand the views of shareholders in advance of the transition to this reporting model such that pay policy is reported in sufficient detail. The Government notes that this may be an area where there is particular value in best practice guidance, developed and agreed jointly by business and investors. Paragraphs 28 - 31 discuss the role of best practice further.

44. In order to put these disclosures in context, the Government proposes that this table is accompanied by a narrative explanation of whether remuneration policy for directors differs from remuneration policy for other employees and if so an explanation of why.

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<sup>13</sup> A performance adjustment technique that allows firms to demand payback of all or part of an individual's bonus that has already vested with the individual, to take account of developments after vesting.

<sup>14</sup>The withholding of deferred pay when performance is not sustained.



For variable elements of pay, the report will also include an explanation of why performance metrics were chosen or, if no performance metrics have been applied, why that is the case. The Government does not expect companies to be forced to disclose performance metrics where doing so would harm shareholder interests.

**Question 3: The Government intends to introduce a table which sets out the key elements of remuneration and supporting information on the pay policy. The Government does not propose to prescribe the specific disclosures that are required for each element of pay. Is this a practical and informative approach?**

## Service contracts

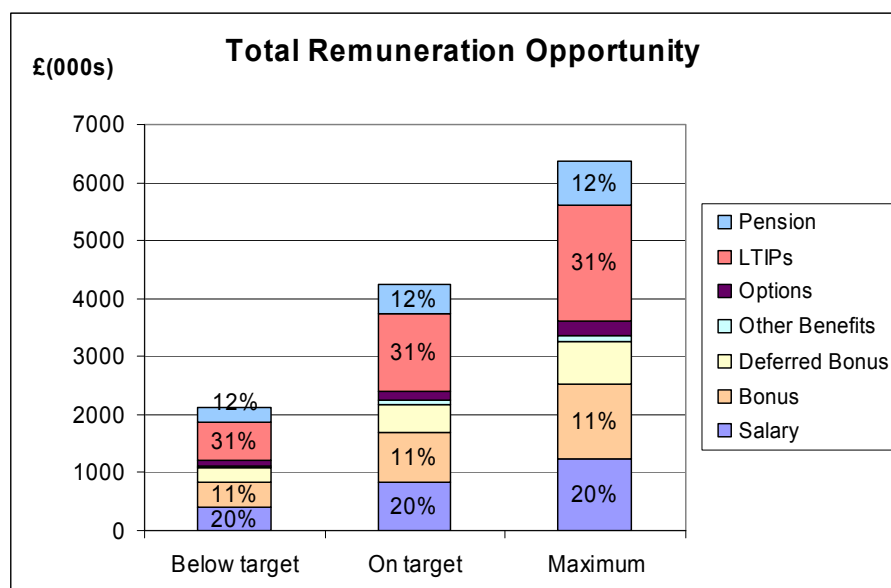
45. Most directors' service contracts provide details of the broad types of remuneration that the individual is entitled to, or can be invited to participate in. In the vast majority of cases, service contracts offer no certainty as to the size and type of pay that will be made and make clear that this will be at the discretion of the company. However, the Government understands that in some cases contracts stipulate in advance exactly what a director could be entitled to. In future contractual obligations will need to take into account the need to be consistent with shareholder approved policy on remuneration.
46. Transparency around the content of directors' service contracts is therefore very important. Although companies are already required to make contracts available under the Companies Act<sup>15</sup>, shareholders have said that it can be difficult to get hold of them. The Government therefore proposes that the policy report set out all existing contractual provisions that relate to directors remuneration.

## Scenarios

47. In order to improve transparency about the potential levels of payments to directors, and manage their expectations about what they might receive, the Government proposes that the policy report set out, in line with current best practice, what directors will get for threshold, maximum and below-threshold performance in graphical form. The graph will set out both the proportion of pay made up by each element in each scenario as well as the total amounts. The Government expects this to build on current reporting practices. It might look something like the chart below.

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<sup>15</sup> s228 Companies Act



48. The Government expects this disclosure to provide an indication of the expectations of the remuneration committee when setting pay rather than hard and fast estimates of future pay packages. As a result the Government is not proposing to set a standard methodology for calculating pay in these scenarios. The Government notes that it is already good practice for reports to include a similar disclosure and does not therefore expect this to pose significant additional burdens on companies.

### Relative importance of the spend on pay

49. Quoted companies are not currently required to disclose total expenditure on remuneration and how this relates to the company's overall performance. However, a number of shareholders have said that in order to get a holistic understanding of a company's policy on pay, it is important that they understand how spend on pay relates to a wider range of factors including dividends and profit. In view of the continuing rise in total levels of directors' remuneration and shareholder concerns that pay does not always reflect performance, the Government proposes that the remuneration report set out the percentage change in profit, dividends and overall expenditure on pay in the reporting period.

**Question 4: The Government intends to introduce reporting requirements on service contracts, what remuneration directors can receive in different scenarios and the percentage change in profit, dividends and overall expenditure on pay in the reporting period. Is this a practical and informative approach? If an alternative disclosure would be useful, please give details.**

### Exit payments policy

50. Alongside this consultation the Government has announced proposals on shareholder voting. As part of this package, a company's approach to exit payments will be subject to shareholder approval as part of the new binding vote on remuneration policy and, where relevant, the existing binding vote on share plans.

51. To facilitate this vote, companies will be required to set out their approach to exit payments in the policy report. This policy on exit payments will set out a framework for

how the company will calculate exit payments. It will not be individualised. The Government proposes that this includes the following information as a minimum:

- The principles on which the determination of the payment will be made, including:
  - (i) how each element of pay will be dealt with when calculating the exit payment;
  - (ii) whether the company will distinguish between types of leaver or the circumstances under which a director left (e.g. change of control or retirement); and
  - (iii) how performance will be taken into account;
- Any contractual provision agreed prior to the introduction of these regulations that could impact on the termination payment.

**Question 5: The Government proposes that a company's statement on its approach to exit payments sets out the principles on which the determination of the payment will be made. If additional information would be useful, please give details.**

### Employee context

52. The current regulations require that the remuneration report includes a statement of how pay and employment conditions of employees across the group were taken into account, but feedback suggests that few reports provide meaningful information about this. In order to improve the information provided about the wider employee context, the Government proposes that reports are much more specific about what the pay policy is for the wider organisation and how that has impacted on the decisions taken by the remuneration committee.

53. In its recent consultation on narrative reporting<sup>16</sup>, the Government sought views on whether disclosure of the ratio between the pay of the Chief Executive and the median earnings of the organisation's workforce would provide useful information to shareholders. Respondents to that consultation raised concerns that firm-specific factors such as workforce composition and main country of operation could obscure meaningful comparison between companies.

54. Taking these considerations on board, the Government is not proposing to introduce a requirement to disclose this ratio. Instead it proposes, in order to give more information about how the pay of employees was taken into account, that the policy part of the report sets out:

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<sup>16</sup> <http://bis.gov.uk/assets/biscore/business-law/docs/f/12-588-future-of-narrative-reporting-government-response.pdf>

- Whether comparison metrics were taken into account and if so what those metrics were.
- How this information was taken into account.
- The percentage increase in pay of the workforce and the percentage increase in pay of the CEO.

55. The Government does not believe that there should be a statutory duty for companies to consult their employees on pay issues. However, the views of the wider organisation may provide an important and different perspective which support the remuneration committee in making judgements about directors' pay. The draft regulations therefore include a proposal that the policy part of the remuneration report include a statement on whether, and if so, how a company sought employee views on the remuneration policy.

**Question 6: The Government would welcome views on the proposal for the policy part of the remuneration report to include a statement on whether and if so how a company sought employee views on the remuneration policy.**

### Shareholder context

56. Quoted companies are not currently required to disclose information about how they have engaged with their shareholders. Given that the revised regulations will underpin the Government's proposals on shareholder voting, the Government proposes that the future policy report sets out how shareholder views were taken into account in setting remuneration policy.

### 3. Implementation report

#### Overview

57. As part of its wider package of reform to shareholder voting rights, the Government has announced its intention to maintain an annual advisory vote on the actual payments made to directors. To facilitate this, the Government proposes that companies will continue to report annually on how the policy has been implemented in the relevant reporting year. The Government proposes that the implementation part of the report includes the information set out below. This replaces rather than adds to the current reporting requirements.

- Single total figure of remuneration for each director.
- Detail of performance against metrics for long term incentives.
- Total pension entitlements (for defined benefit schemes).
- Exit payments made in year.
- Detail on variable pay awarded in year.
- Total shareholdings of directors.
- Chart comparing company performance and CEO pay.
- Information about who has advised the remuneration committee.
- Shareholder context.

#### Single total figure of remuneration for each individual director

58. Currently, quoted companies are required to provide detailed information in respect of general emoluments (including salary, fees and annual bonuses), share options, long term incentives and pensions. However, companies are not required to provide a single aggregate figure. Whilst there are some examples of best practice reporting, these disclosures are often reported separately and spread across a lengthy report. As a result it can be difficult and time-consuming for shareholders to have a clear understanding of the total amounts paid to directors. For those companies that do report a single figure, there is no consistent approach and comparison is not possible across companies.

59. The Government proposes to address these challenges through the inclusion of a single figure for total remuneration within the implementation report. This will cover all people who have served as a director of the company at any time in the relevant financial year. There will be a separate disclosure on exit payments made. Feedback to the narrative reporting consultation, where the single figure was first proposed, was

largely supportive in principle, provided a comparable and meaningful methodology was proposed<sup>17</sup>.

60. The Government recognises that, while there are a number of ways of calculating a single figure, it is important to have consistency between companies as to what is included in the figure and how it is calculated. This consultation therefore proposes that there is a set methodology for its calculation. The Government is grateful to the FRC's Financial Reporting Lab, and those companies and investors who worked with the Lab, for its help in developing the methodology for how the single figure should be calculated<sup>18</sup>. The proposals in this consultation build on the outcomes of their project.

61. The Government proposes that the single figure has three key features:

- It is comprehensive.
- It reflects actual pay earned rather than potential pay awarded.
- It is consistent.

62. The single figure will be a comprehensive figure that includes all types of reward received by directors in the period being reported on, including fixed and variable elements as well as pension provision. This will meet the Government's objective of providing an easily identifiable aggregate figure.

63. The single figure will reflect actual pay earned rather than potential pay awarded. For variable elements of pay, the Government proposes that this includes remuneration that becomes receivable as a result of the achievement of conditions relating to performance in the reporting year. Where the performance period is longer than a single year, it should reflect the remuneration where the financial year being reported on is the last year of the performance cycle. This includes full bonuses awarded in the reporting period and the value (or an estimated value) of long term incentives where final vesting is determined as a result of the achievement of performance conditions that end in the year being reported on. For example, within a 2012 report, the variable element of pay included within the single figure would be the bonus awarded for 2012 performance (even if that bonus has been deferred) and long term awards that cover periods where 2012 is the last financial year of the performance cycle.

64. The Government believes that this approach relates most closely to what directors receive and aligns, as far as is reasonably possible, the figure for directors' remuneration with a time period over which to assess company performance.

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<sup>17</sup> <http://bis.gov.uk/assets/biscore/business-law/docs/f/12-588-future-of-narrative-reporting-government-response.pdf>

<sup>18</sup> The Lab's final report can be found at:  
[http://www.frc.org.uk/documents/pagemanager/frc/Financial\\_Reporting\\_Lab/FRC%20Lab%20Single%20figure%20for%20remuneration.pdf](http://www.frc.org.uk/documents/pagemanager/frc/Financial_Reporting_Lab/FRC%20Lab%20Single%20figure%20for%20remuneration.pdf)

65. The single figure should be consistent with regard to both the components of pay that are included and how each component is measured. In order to facilitate this, the Government proposes that the single figure is set out in a prescribed table format – see example below. The Government recognises that companies need flexibility to structure pay to best suit their organisation. The headings set out in the table will need to reflect all pay received by an individual under the terms of the pay policy set out in the company’s agreed pay policy. If pay is simplified, this table could have fewer entries.

<b>Single Total Figure Table (£'000)</b>						
	<b>Salary</b>	<b>Benefits</b>	<b>Pension</b>	<b>Bonus</b>	<b>LTIP<sup>19</sup></b>	<b>Total</b>
<b>Director 1</b>	xxx	xxx	xxx	xxx	xxx	<b>xxx</b>
<b>Director 2</b>	xxx	xxx	xxx	xxx	xxx	<b>xxx</b>

66. The Government recognises that both in order to make it easier for companies to comply with this requirement and to facilitate comparisons between companies, it is important to define clearly within the regulations what should be captured within this table and how it will be measured. The Government’s proposal is set out in the table overleaf.

**Question 7: The Government’s intention is that the single total figure includes remuneration that becomes receivable as a result of the achievement of conditions relating to performance in the reporting year where the reporting year is the last year of the performance cycle. Do the specific disclosures set out in the table below correctly give effect to this intention?**

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<sup>19</sup> Long Term Incentive Plan

	<b>Definition</b>	<b>Measurement</b>
<b>SALARY and FEES</b>	Full salary/fee.	Cash paid in respect of the year.
<b>BENEFITS</b>	All taxable benefits including recruitment and tax payments, dividends received in cash over the vesting period of long term incentives and deferred awards.	Taxable value.
<b>PENSION</b>	All pensions related benefits including: (a) cash in lieu of pension; (b) company contributions to funded money purchase schemes; (c) benefit achieved in year from participating in a defined benefit pension plan; (d) benefit achieved in year from participating in a unfunded retirement schemes; (e) benefit achieved in year as a result of participation in unfunded money purchase schemes.	Cash values for (a) and (b).  For (c) and (d), the additional value achieved in year calculated using the HMRC methodology for assessing lifetime limits.  For (e), the increase in value of the lump sum the director would receive over the reporting period, on the assumption that the scheme provided for a lump sum.  See below for more detail.
<b>BONUS</b>	Full bonus awarded in relation to the performance year.	Total cash equivalent including amount deferred. Measure deferred element at face value on date of award.
<b>LTIP</b>	All other awards where final vesting is determined as a result of the achievement of performance conditions that end in the year being reported on (e.g. shares under long term incentives, matching shares under deferred bonus arrangements and share options).  Where there are no further performance conditions for long term incentives, awards granted related to current performance year.	Total market value at date of vesting or estimate of total market value if not yet vested. See below for detail.



67. The participants in the Financial Reporting Lab's project on the single figure considered the three possible means of valuing the benefit under a defined benefit pension scheme: the HMRC methodology for assessing lifetime limits<sup>20</sup>; International Accounting Standard Nineteen (IAS 19)<sup>21</sup> calculated for each executive director; and transfer values<sup>22</sup>. Investors participating in that project felt that the HMRC methodology with a multiple of 20 was the simplest method of calculating defined benefit pensions for the purposes of the single figure. Furthermore, the Government has concerns about using market based valuations such as IAS19 and transfer values as these produce volatile values as market conditions change, reducing their comparability over time, and involve the making of assumptions that are not always easy to understand.
68. As a result, the Government proposes that the benefit an individual receives under a defined benefit pension scheme be calculated using the HMRC methodology using an annual multiplier of 20. Although the Government notes that there was some concern that this methodology may result in an underestimation of the actual value of the pension, it believes that the use of a multiple of 20 rather than 16 for the purposes of the single figure mitigates this concern. This methodology also has the benefit of being an accepted and comparable methodology that is easy to calculate.
69. The Government notes that some concerns have been raised about the application of the HMRC methodology to international pension plans, where there may be different provisions in relation to, for example, inflation protection, retirement age, and widow's pension. However, the Government does not believe that these concerns undermine the value of the HMRC method as a simple rule of thumb for the purposes of putting a value on defined benefit pension provisions within the single figure. Furthermore, given that the policy report will set out the policy in relation to pensions, the Government believes that companies will be able to set out the specific details of international pension schemes elsewhere in the remuneration report.

**Question 8: The Government proposes the application of the HMRC methodology to work out the value of defined benefit pension schemes. Is this a practical and informative approach?**

70. Some companies are now awarding directors pension benefits through unfunded pension schemes. It is the Government's intention that these are also caught within the scope of the single figure. The Government proposes that unfunded pension benefits are valued according to the same formula as funded defined benefit schemes. For unfunded money purchase schemes, the Government proposes that the value disclosed in the single figure is calculated using the same methodology as is used to value a lump sum benefit under a defined benefit scheme as is based on the

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<sup>20</sup> This is the difference between the opening value of the benefit and the closing value of the benefit. If the difference is a negative amount then the pension savings for the arrangement is nil. An annual multiplier is used to value the increase in the individuals benefit.

<sup>21</sup> This is the present value of expected future payments required to settle the obligation resulting from employee service in the current and prior periods, as adjusted for unrecognised actuarial gains and losses and unrecognised past service cost, and reduced by the fair value of plan assets at the balance sheet date. [IAS 19.54]

<sup>22</sup> A transfer value represents the expected cost of providing the member's benefits within the scheme. It is calculated by working out a best estimate of the expected cost of providing the member's benefits in the scheme.

assumption that the rights under that scheme would be used to provide a lump sum. This approach has the benefit of mirroring the reportable disclosure for other pension benefits.

71. For long term incentives, the Government proposes that the relevant value of the single figure is worked out by multiplying the original number of shares granted (adjusted to take account of rights issues) by the percentage that will vest based on current year performance (or best estimate) to determine the level of the award. Any accumulated dividends rolled up into shares would need to be added to this figure. This would then be multiplied by the market value of shares at the release date to give the total market value for the purposes of the single figure. The Government recognises that not all long term incentive plans reportable under the single figure will have vested prior to the date on which the remuneration report needs to be signed off. In these circumstances, an estimate of the value of the benefit will need to be calculated on the basis of an average market value over the three months prior to the year end. Options will be valued according to a similar formula, adjusted to take account of the amount that is required to buy the share.
72. The Government recognises that, for those shares that have not yet vested, this estimate of market value may differ from the actual value received. This proposal aims to mitigate this as far as possible by estimating the value as close as reasonably possible to the vesting date. However, the Government notes that where there are still discrepancies, some companies may want to put actual values into the public domain by including this information in a statement to the market when the awards vest. Investors have said they would value this. The Government does not propose to require companies to restate actual amounts received in the following years' remuneration report but recognises that this may be an area where there is a role for best practice guidance in setting out investor expectations.
73. Cases of malus, where amounts are recovered through the non-payment of awards that are yet to vest, are captured by the above approach to disclosure on LTIPs and will appear as a reduced LTIP value to a director. It is however important that cases of claw-back are subject to the same levels of transparency. In cases of formal claw-back, where moneys are retrieved following misstatement or misconduct, it is consistent with the approach set out here that this is also disclosed as part of the single figure. The Government recognises that where claw-back does occur, companies may choose to set out the circumstances and factors that affected the decision in its supporting disclosures.

**Question 9: The Government proposes that claw-back is recorded as part of the single figure. Is this a practical and informative approach?**

### **Detail of performance against metrics for variable awards**

74. The award to a director of the amounts disclosed in the single figure table that relate to long term incentives and annual bonuses are likely to have been dependent on the achievement of performance conditions imposed in the design of the scheme. Companies are currently required to set out details of the qualifying conditions for long term incentive plans but not how the company performed against those conditions.
75. Shareholders have said that companies should provide greater clarity about the link between pay and performance, so that they can be confident that directors are being

incentivised appropriately. This includes a clear and concise commentary on the link between the previously agreed performance measure and the pay awarded in the reporting period. Although some companies adopt best practice and disclose this information, this is not consistent and shareholders have said that the information provided on performance against metrics is not specific enough to make a judgement about how well pay is aligned with company performance.

76. The Government recognises that it is sometimes necessary for a remuneration committee to exercise discretion in determining awards but expects boards to be clear with shareholders about how that discretion was exercised and the factors that were taken into account.
77. The Government therefore proposes to supplement the disclosure in the single figure table relating to long term incentives and annual bonuses with details on performance against conditions as set out below:

For all annual bonus and LTIP contained within the single figure table, the report shall set out:

- what the performance conditions were and the relative importance of each;
- within each performance condition, the targets originally set and the potential level of award achievable;
- for each performance condition, how the company performed against the targets set for that condition;
- where the committee had discretion, how it exercised that discretion; and
- the resulting level of award.

For those elements of pay that were awarded in relation to the financial period being reported on and were subject to deferral, the report will also set out the percentage deferred and whether it was deferred in cash or shares.

78. The Government recognises that there is an important balance to strike between protecting commercial confidentiality and ensuring that reports provide enough information to enable shareholders to judge whether performance measures were stretching enough and applied appropriately. We do not expect these provisions to require companies to disclose performance metrics where doing so would harm shareholder interests. However, the Government would welcome views on whether there is a need for flexibility in the application of these rules in order to protect commercially sensitive information.

**Question 10: The Government would welcome views on whether it would be commercially sensitive to require companies to publish full details of performance against metrics. If so, how can an appropriate degree of flexibility be achieved?**

## Total pension entitlements

79. Final salary pension schemes represent particular value to those directors that are still eligible to receive them and they are often more generous than schemes open to the wider workforce of a company. Companies will need to set out details of pension schemes in operation and who is entitled to benefits under them within the policy report. However, the Government also recognises that the value attributed to a defined benefit pension scheme in the single figure will be less representative of the total value of the benefit to the director than that attributed to money purchase schemes.
80. The Government therefore proposes to supplement the information provided in the single figure table for final salary pension schemes with information on the accrued value of the pension were the director to retire at the end of the year and assuming a normal retirement date; and the date that becomes receivable to the individual. The report will also set out the value of any additional benefit that would become receivable to a director were they to retire early. It is the Government's intention that this additional disclosure applies both to funded and unfunded benefit schemes. To ensure that there is clarity about how directors accrue pension benefits set out in the single figure table, reports will break down the pension benefit into the component types.
81. The Government does not propose to replicate the current reporting requirement on excess retirement benefits<sup>23</sup> which requires companies to disclose, for directors who were entitled to claim their pension at 31 March 1997, any payments that are above the original benefit to which they were entitled. The Government believes that as companies will not be able to pay directors any pension payment that exceeds what is set out in the policy statement, this disclosure is no longer necessary.

### **Question 11: Will the Government's proposed disclosure requirements on pensions lead to reporting of sufficient information on the benefits received by directors?**

## Exit payments that have been made

82. Alongside this consultation the Government has announced proposals for a binding vote on exit payments as part of the new binding vote on remuneration policy and the existing binding vote on share plans. In the event of a director leaving, companies will be required to issue a statement immediately setting out how the exit payment has been calculated. Given that this information may not be readily available at the time of the annual general meeting, the Government proposes that the annual report on the implementation of the policy requires companies to restate details of exit payments made, including:

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<sup>23</sup> s14, Schedule 8 of the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008

- The level of compensation received broken down into the key elements.
- An explanation of how each element was calculated.
- An explanation of how the decisions made relate to the policy on exit payments.

### Detail on variable pay that has been awarded in the reporting year

83. Quoted companies are currently required to report the details of scheme interests awarded to directors during the reporting year. The Government believes that it is important that companies continue to provide information about the decisions the remuneration committee has taken about directors' potential future entitlement to remuneration and the potential liabilities of the company. This view was supported by investors participating in the Financial Reporting Lab's project on the single figure.
84. To ensure sufficient transparency, it is important that this disclosure includes an estimate of the value of the award to the director. The Government has considered both expected and face value as the method of valuation. The advantage of the expected value methodology is that it allows the company to set out a figure that is close to what they anticipate a director will receive. However, investors have raised concerns that the calculation of expected value requires a number of assumptions that are not always transparent. The Government therefore proposes disclosure of the face value of awards made under long term incentive plans. The Government recognises that there are concerns that this could lead to a disclosure of levels of awards that are higher than executives are likely to receive but believes that this can be overcome by additional disclosure of the percentage of the award that would vest at threshold performance.
85. The Government therefore proposes that the report contains the following information about awards made in the current year under long term incentive plans:

- Scheme – the type of long term award (e.g. shares, matching shares, options)
- Basis of award – calculation of face value (e.g. x times base salary)
- Face value
- Vesting maximum if above face value
- Percentage of the award that would vest at threshold performance
- Date performance period ends
- Summary of performance criteria if not set out elsewhere

**Question 12: The Government proposes that scheme interests awarded to directors during the reporting year are disclosed at face value. Is this a practical and informative approach?**

### Total shareholdings of directors

86. It is important that shareholders understand the potential liabilities that companies have to their directors in terms of shareholdings. Currently, quoted companies are required to disclose detailed information on directors' interests at the beginning and end of the financial year for share options and long term incentive schemes. However, the Government's proposals in relation to the single figure and detail on variable pay that has been awarded in the reporting year will mean that a significant amount of the information that shareholders need in relation to directors' interests will already have been disclosed.

87. As a result the Government proposes to simplify the current reporting requirements and focus on the most important information required by shareholders that will not be available elsewhere in the remuneration report. The Government proposes that reports set out the total shareholdings of directors, including:

- Share ownership requirements and whether they have been met.
- Total numbers of shares and share options that each director owns (a) outright; (b) subject to deferral; and (c) subject to performance conditions.

88. The Government notes that premium listed companies on the main market are subject to the additional requirements set out in the Listing Rules<sup>24</sup> to disclose changes to directors' share ownership over the reporting period. It is not the Government's intention to create, through this section, a provision that is in contradiction with that requirement.

**Question 13: The Government proposes to simplify the reporting requirements regarding directors' interests. What are the costs and benefits of this approach? If an alternative disclosure would be more useful, please give details.**

### Comparison of overall company performance and pay

89. Companies are currently required to publish a performance graph demonstrating total shareholder return (TSR) over the previous five years in comparison to peer group companies. The Government notes that stakeholders have commented that this graph is of limited use to shareholders.

90. The Government does however believe that the remuneration report should provide shareholders with information that enables them to assess the relationship between remuneration and performance over a long term period. The Government therefore proposes that companies produce a graph comparing company performance with the

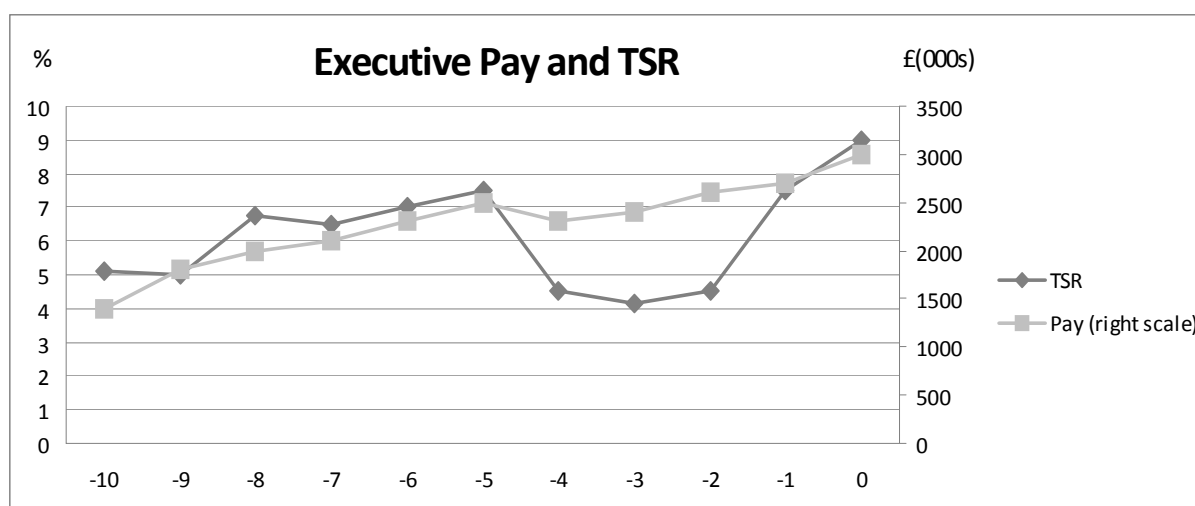
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<sup>24</sup> 9.8.6 of the Listing Rules



pay of the CEO. The purpose of this graph is to give shareholders an at a glance view of how well pay compares with performance. We believe that this graph will be more useful to investors than the current graph plotting total shareholder return performance and do not therefore envisage the continued production of this graph.

91. CEO pay has been chosen on the basis that it is a simple figure to ascertain from the single figure. However, the Government notes that the average tenure for a chief executive officer is under ten years and that as a result this graph will likely cover the tenure of a number of different CEOs. The Government does not believe that this will pose a particular reporting problem and notes that this will provide shareholders with the opportunity to compare the relative pay of different chief executive officers and the performance of the company. However, the Government would welcome views on whether total directors' pay would be a more appropriate proxy.
92. In the consultation on narrative reporting, Government consulted on which measure of performance would be most appropriate as a proxy for company performance. There was no clear consensus amongst respondents to that consultation about what the best measure is and the Government notes that there is a growing debate about the relative value of different measures in assessing company performance. In addition to total shareholder return, options raised included a company's chosen key performance indicators, return on capital and return on assets. A number of respondents also argued that no single measure would be consistently relevant to all companies.
93. The chosen measure for the purposes of this graph needs to be relevant and a reasonable and consistent barometer for company performance over a long time period rather than a measure that can represent the sole basis for performance related pay. In light of this, and the fact that there does not appear to be a consensus on the preferred measure, the Government proposes that the performance measure chosen is something that is easily understood and that shareholders and companies are used to dealing with. The Government does not believe that company specific measures are appropriate as these would not be comparable across companies. The Government therefore proposes that total shareholder return is used as a proxy for company performance.
94. The Government envisages that this graph might look like the example below:



**Question 14: The Government proposes that the remuneration report includes a graph that plots total shareholder return, as a proxy for company performance, against CEO pay. Do you agree that this graph would be useful? If so, do you agree that total shareholder return and CEO pay are the best proxies for company performance and pay? If not, what measures would be more appropriate?**

### Provision of advice

95. In many cases the consultants who advise the committee will be part of a business organisation which provides other services to the company. Where this is the case, the Corporate Governance Code requires that it is reported. The Government believes that there is a case to strengthen this disclosure to ensure that any potential conflicts of interest are addressed or exposed. There is a good governance argument for shareholders to be made aware of fees paid to consultants for their services to the board. The Government proposes that the remuneration report set out more detailed information on the provision of advice from any consultant that provided advice to the company on remuneration, including during recruitment.

- Who provided advice about the remuneration of directors, including on recruitment.
- Whether they provided other services to the company and who they were appointed by.
- How they were selected.
- The total cost of advice on remuneration and basis on which they were paid.



## Shareholder context

96. Quoted companies are not currently required to disclose information about how they have engaged with their shareholders. Given that the revised regulations will underpin the Government's proposed new regime for shareholder voting, the Government proposes that the report on how the policy has been implemented sets out the shareholder context:

- How shareholders voted on both the binding vote and the advisory vote at the previous year's AGM, set out as a percentage of votes cast.
- Percentage of shareholder base that abstained.
- Reasons for significant dissent where known.
- Action taken by the committee in response.

## 4. Assurance

97. The regulations currently require those parts of the remuneration report that relate to payments made to be audited. Audit is an essential element of annual reporting to ascertain the validity and reliability of the information provided. However the Government recognises that audit is also a costly process for companies. The Government therefore proposes to limit the sections of the report that are subject to audit to those areas within the annual report on the implementation of the policy where it is necessary to provide shareholders with the assurance that the information provided is free from material error.

The Government proposes that the following sections of the report are subject to audit:

- Single total figure for remuneration
- Detail of performance against metrics for variable awards included in the single figure
- Total pension entitlements (for defined benefit schemes)
- Exit payments made
- Detail on variable pay awarded in year

**Question 15: The Government proposes that the single figure, detail of performance against metrics, total pension entitlements, exit payments made and detail on variable pay are all subject to audit. Are there any other sections of the report that should be subject to audit?**

## 5. Consultation questions

Question 1: The Government seeks comments on how well the draft regulations attached at Annex B give effect to the policy set out in this consultation document.

Question 2: What costs will companies face in adjusting to these revised reporting regulations?

Question 3: The Government intends to introduce a table which sets out the key elements of remuneration and supporting information on the pay policy. The Government does not propose to prescribe the specific disclosures that are required for each element of pay. Is this a practical and informative approach?

Question 4: The Government intends to introduce reporting requirements on service contracts, what remuneration directors can receive in different scenarios and the percentage change in profit, dividends and overall expenditure on pay in the reporting period. Is this a practical and informative approach? If an alternative disclosure would be useful, please give details.

Question 5: The Government proposes that a company's statement on its approach to exit payments sets out the principles on which the determination of the payment will be made. If additional information would be useful, please give details.

Question 6: The Government would welcome views on the proposal for the policy part of the remuneration report to include a statement on whether and if so how a company sought employee views on the remuneration policy.

Question 7: The Government's intention is that the single total figure includes remuneration that becomes receivable as a result of the achievement of conditions relating to performance in the reporting year where the reporting year is the last year of the performance cycle. Do the specific disclosures set out in the table on page 24 correctly give effect to this intention?

Question 8: The Government proposes the application of the HMRC methodology to work out the value of defined benefit pension schemes. Is this a practical and informative approach?

Question 9: The Government proposes that claw-back is recorded as part of the single figure. Is this a practical and informative approach?

Question 10: The Government would welcome views on whether it would be commercially sensitive to require companies to publish full details of performance against metrics. If so, how can an appropriate degree of flexibility be achieved?

Question 11: Will the Government's proposed disclosure requirements on pensions lead to reporting of sufficient information on the benefits received by directors?

Question 12: The Government proposes that scheme interests awarded to directors during the reporting year are disclosed at face value. Is this a practical and informative approach?

Question 13: The Government proposes to simplify the reporting requirements regarding directors' interests. What are the costs and benefits of this approach? If an alternative disclosure would be more useful, please give details.

Question 14: The Government proposes that the remuneration report includes a graph that plots total shareholder return, as a proxy for company performance, against CEO pay. Do you agree that this graph would be useful? If so, do you agree that total shareholder return and CEO pay are the best proxies for company performance and pay? If not, what measures would be more appropriate?

Question 15: The Government proposes that the single figure, detail of performance against metrics, total pension entitlements, exit payments made and detail on variable pay are all subject to audit. Are there any other sections of the report that should be subject to audit?

## 6. How to respond

98. The Government is inviting written responses to the consultation. The deadline for responses is **26 September 2012**.
99. A copy of the Consultation Response form is available electronically on our website at <http://www.bis.gov.uk/Consultations/directors-pay-revised-remuneration-reporting-regulations?cat=open>. The form can be submitted by letter or email to:
- Barry Walker  
Executive Pay Consultation  
Department of Business, Innovation and Skills  
1 Victoria Street  
SW1H 0ET  
020 7215 3930  
executive.pay@bis.gsi.gov.uk
100. You may make copies of this document without seeking permission. Further printed copies of the consultation document can be obtained from:
- BIS Publications Orderline  
ADMAIL 528  
London SW1W 8YT  
Tel: 0845-015 0010  
Fax: 0845-015 0020  
Minicom: 0845-015 0030  
[www.bis.gov.uk/publications](http://www.bis.gov.uk/publications)
101. Other versions of the document in Braille, other languages or audio-cassette are available on request.

### Confidentiality & Data Protection

102. In the interests of transparency, the Department may choose to publish the responses to this consultation. Please state clearly if you wish your response to remain confidential.
103. Please note that information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
104. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic

confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

### Help with queries

105. Questions about the policy issues raised in the document can be addressed to:

Barry Walker  
Executive Pay Consultation  
Department of Business, Innovation and Skills  
1 Victoria Street  
SW1H 0ET  
020 7215 3930  
[executive.pay@bis.gsi.gov.uk](mailto:executive.pay@bis.gsi.gov.uk)

106. A copy of the Code of Practice on Consultation is in Annex C.

### What happens next?

107. Following this consultation the Government will consider the evidence received and announce final proposals for remuneration reporting in the Autumn. Subject to parliamentary time being available, the Government will bring forward secondary legislation to give effect to these proposals.

## Annex A: Mock-up policy table setting out all elements of remuneration

Key Elements of Remuneration						
	Purpose and link to strategy	Operation	Opportunity	Performance metrics	Changes in year	Page
<b>Base salary</b>	<p>Help recruit and retain employees.</p> <p>Reflects individual experience and role.</p>	<p>Reviewed annually and fixed for 12 months commencing 1 April. Decision influenced by:</p> <ul style="list-style-type: none"> <li>- role, experience and performance;</li> <li>- average change in broader workforce salary;</li> <li>- total organisational salary budgets.</li> </ul> <p>Salaries are benchmarked against the FTSE 10.</p>	<p>Maximum annual increase of 5%.</p>	<p>None</p>	<p>Directors salaries increased by 2%.</p>	
<b>Benefits</b>	<p>Help recruit and retain employees.</p>	<p>Directors are entitled to healthcare, car and life assurance.</p>	<p>Full cost of annual policy c. £40,000</p>	<p>None</p>	<p>None</p>	
<b>Annual bonus</b>	<p>Rewards the achievement of annual financial and strategic business targets and delivery of personal objectives.</p> <p>Deferred element encourages long-term shareholding and discourages excessive risk taking.</p>	<p>Targets are renewed annually and relate to areas of the business over which the executive has particular control.</p> <p>Bonus level is determined by the Committee after the year end, based on performance against targets.</p> <p>Individuals may choose to defer up to 50% of any bonus earned over 3 years. The deferred element is subject to forfeiture if the performance which led to its being paid is found to be incorrect or in the event of misconduct.</p>	<p>Target % of salary: 125%</p> <p>Maximum % of salary: 200%</p>	<p>The majority of the bonus is based on achievement of challenging financial objectives:</p> <ul style="list-style-type: none"> <li>- 75% judged by performance of Group operating profit</li> <li>- 25% judged on Group profit before interest and tax</li> <li>- Adjusted to reflect individual performance in achieving global sales and restructuring the group.</li> </ul> <p>The deferred element of the bonus is subject to the same performance measures as the LTIP.</p>	<p>No change has been made to measures or weighting.</p>	

<p><b>Long Term Incentive Plan</b></p>	<p><i>Incentivises Directors to achieve returns for shareholders over a longer time frame.</i></p>	<p><i>CompanyX has one LTIP which was agreed by shareholders on XX.</i></p> <p><i>Awards of conditional shares are made annually with vesting dependent on the achievement of performance conditions over the three subsequent years.</i></p> <p><i>The committee reviews the quantum of awards annually to ensure that they are in line with market rates.</i></p>	<p><i>Maximum % of salary: 600%</i></p> <p><i>Working maximum: 400%</i></p>	<p><i>Awards vest at end of three year performance period based on three equally weighted performance measures:</i></p> <ul style="list-style-type: none"> <li>- <i>Business diversification performance</i></li> <li>- <i>Adjusted free cash flow</i></li> <li>- <i>Relative TSR</i></li> </ul> <p><i>25% vests at threshold, rising to 100% for stretching performance exceeding the set threshold by a specified margin.</i></p> <p><i>Against comparator group comprising 10 other companies, 30% vests at median with 100% vesting for upper quartile performance.</i></p>	<p><i>A new measure of business diversification has been added to reflect feedback from shareholders following the advisory vote on our remuneration report at last year's AGM.</i></p>	
<p><b>Pension</b></p>	<p><i>Rewards sustained contribution.</i></p>	<p><i>CompanyX operates a defined contribution pension scheme. Benefits are accrued according to length of service up to retirement. CompanyX does not provide cash in lieu of pensions or a top up scheme.</i></p> <p><i>CompanyX has closed its DB scheme but Director1 is still a member. 2/3 final salary scheme, accrual rate 1/60; no service requirement, retirement age 60; no additional benefits on early retirement.</i></p>	<p><i>New executives receive 15% base salary (they contribute 5%).</i></p>	<p><i>None.</i></p>	<p><i>None</i></p>	



## Annex B: Draft regulations

*Draft Regulations laid before Parliament under section 473(3) of the Companies Act 2006 for the approval by resolution of each House of Parliament.*

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### DRAFT STATUTORY INSTRUMENTS

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**2013 No. XXXX**

**COMPANIES**

### The Large and Medium-sized Companies and Groups (Accounts and Reports) (Amendment) Regulations 2012

*Made* - - - - - \*\*\*

*Coming into force* - - - - - \*\*\*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 421 of the Companies Act 2006<sup>(25)</sup>.

In accordance with section 473(3) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

#### **Citation and commencement**

1. These Regulations may be cited as the Large and Medium-sized Companies and Groups (Accounts and Reports) (Amendment) Regulations 2013 and come into force on ....

#### **Amendment to regulation 11 of the principal Regulations**

2.—(1) In these Regulations, “the principal Regulations” means the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008<sup>(26)</sup>.

(2) Regulation 11 of the principal Regulations is amended as follows.

(3) For regulation 11(2) substitute—

“11.—(2) In Schedule 8—

Part 1 is introductory,

Part 3 relates to information relating to the financial year in respect of which the report is required to be made,

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<sup>(25)</sup> 2006 c.46.

<sup>(26)</sup> S.I. 2008/410.

Part 4 relates to the policy part,  
 Part 5 identifies which parts of the report are subject to audit,  
 Part 6 is interpretative and supplementary.”.

(4) In regulation 11(3) for “Part 3” substitute “Part 5”.

### Substitution of Schedule 8 to the principal Regulations

3. For Schedule 8 to the principal Regulations substitute the provisions set out in the Schedule to these Regulations.

## SCHEDULE

### “DIRECTORS’ REMUNERATION REPORT

#### PART 1

##### INTRODUCTORY

1.—(1) In the directors’ remuneration report for a financial year (“the relevant financial year”) there must, subject to sub-paragraph (2), be shown the information specified in Parts 2, 3, and 4.

(2) The policy part of the report, as specified in Part 4, may be omitted from the directors’ remuneration report for a financial year, subject to paragraph (3), if that part of the report is not to be subject to a resolution at a general meeting in accordance with section 439A of the Companies Act 2006.

(3) Where the policy part is omitted from the report, there shall be set out in its place an indication of where on the company’s website or other place the policy part which was last approved at a general meeting can be found.

(4) Information required to be shown in the report for or in respect of a particular person must be shown in the report in a manner that links the information to that person identified by name.

#### PART 2

##### SUMMARY STATEMENT

2. The directors’ remuneration report must contain a statement by the director who fulfils the role of chairman of the remuneration committee summarising the contents of the report.

#### PART 3

##### REPORT RELATING TO THE FINANCIAL YEAR IN RESPECT OF WHICH THE REPORT IS REQUIRED TO BE MADE

###### *Single total figure of remuneration*

3. The directors’ remuneration report must, for the relevant financial year, for each person who has served as a director of the company at any time during that year set out in a table in the form set out in paragraph 4 below the information prescribed by paragraph 5 below.

4. The form of the table required by paragraph 3 is—

<b>Single Total Figure Table (£’000)</b>						
	<b>a</b>	<b>b</b>	<b>c</b>	<b>d</b>	<b>e</b>	<b>f</b>
<b>Director 1</b>	xxx	xxx	xxx	xxx	xxx	xxx
<b>Director 2</b>	xxx	xxx	xxx	xxx	xxx	xxx

5. In the table in paragraph 4, the sums that are required to be set out in the columns are—

- (a) in the column headed “a”, the total amount of salary and fees in respect of qualifying services;
  - (b) in the column headed “b”—
    - (i) all taxable benefits;
    - (ii) all cash dividend received over the vesting period of long term incentives;
  - (c) in the column headed “c”— all pension related benefits including—
    - (i) cash in lieu of pension;
    - (ii) benefit achieved in year from participating in money purchase schemes;
    - (iii) benefit achieved in year from participating in a defined benefit scheme;
  - (d) in the column headed “d”, money or other assets awarded in the reporting period as a result of the achievement of performance conditions that relate to that period other than—
    - (i) payments which are awards granted in a previous period and where final vesting is determined as a result of the achievement of performance conditions relating to the year being reported on (or shortly thereafter), or
    - (ii) payments which are awarded in the reporting period but whose vesting is subject to the achievement of performance conditions in a future reporting period;
  - (e) in the column headed “e” awards under schemes (as defined in paragraph 7 below) where—
    - (i) final vesting is determined as a result of the achievement of performance conditions that end in the year being reported on; and
    - (ii) awards granted under schemes (as defined in paragraph 7 below) where the final value is not dependent on the achievement of performance conditions);
  - (f) the column headed “f”, the total amount of the values set out in columns “a” to “e”.
6. The measurement methods to be used to calculate the sums specified in paragraph 5 are—
- (a) for column “a”, cash paid to or receivable by the person in respect of the year,
  - (b) for column “b”, the taxable value,
  - (c) for column “c”,—
    - (i) for item (i) the cash value;
    - (ii) for item (ii) the cash value of any contribution to the scheme in respect of the person that is paid or payable by the company for the relevant financial year or is paid by the company in that year for another financial year;
    - (iii) for item (ii) where there has not been a contribution to the scheme in respect of the person by the company, the additional value achieved in year calculated using the HMRC method;
    - (iv) for item (iii) the additional value achieved in year calculated using the HMRC method and where the value of the annual pension is capitalised using a multiplier of 20;
  - (d) for column “d”, the total cash equivalent including any amount deferred,
  - (e) for column “e”, either—
    - (i) the cash value of any monetary award or
    - (ii) the value of any shares or share options awarded, calculated by—
      - (X) multiplying the original number of shares granted by the percentage that will vest based on current year performance (or best estimate)
      - (XY) adding to the total arrived at in (X) the amount of accrued dividend received
      - (XYZ) multiplying the total arrived at in (XY) by the market value of shares at the date of vesting
    - (iii) for the purposes of the calculation in subsection (XYZ) where full vesting is not achieved by the date on which the remuneration report is signed off, an estimate of the value of the benefit will be calculated on the basis of an average market value over the last quarter of the financial year
    - (iv) where the award was an award of share options, the cash amount the individual was required to pay to purchase the share will be deducted from the total arrived at in subsection (ii).

**Definitions applicable to the table**

7.—(1) “Benefits” in paragraph 5(b) includes—

- (a) sums paid by way of expenses allowance that are—
  - (i) chargeable to United Kingdom income tax (or would be if the person were an individual), and
  - (ii) paid to or receivable by the person in respect of qualifying services; and
- (b) any benefits received by the person, other than salary, (whether or not in cash) that—
  - (i) are emoluments of the person, and
  - (ii) are received by the person in respect of qualifying services.

(2) Benefits received in advance of a director commencing qualifying services are to be treated as if received on the first day of the contract under which the person is employed, or under which the payment is to be made.

(3) “Scheme” in paragraph 5(e) means any agreement or arrangement under which money or other assets may become receivable by a person and which includes one or more qualifying conditions with respect to service or performance that cannot be fulfilled within a single financial year, and for this purpose the following must be disregarded, namely—

- (a) any payment under paragraph 5(d) the amount of which falls to be determined by reference to service or performance within a single financial year;
- (b) compensation in respect of loss of office, payments for breach of contract and other termination payments; and
- (c) retirement benefits.

(4) “HMRC method” means the amount of the increase in the value of the lump sum that the individual is entitled to under the pension scheme as calculated under s234 of Part 4 of the Finance Act 2004 whether the scheme is a defined benefits scheme within 5(c)(iii) or a money purchase scheme within 5(c)(ii).

(5) For the purposes of 7(4)(a) as it applies to paragraph 6(c)(iii) the assumption applies that all of the rights that the individual is entitled to would be used to provide a lump sum.

**Variable pay – additional disclosures**

8.—(1) For every element of variable pay included in the columns headed “d” and “e” of the table required by paragraph 3, there shall be set out after the table the relevant details (see sub-paragraph (2)) of any award that has become receivable in respect of the interest.

(2) In sub-paragraph (1) “the relevant details”, in relation to any shares that have become receivable in respect of a scheme interest, means—

- (a) details of performance conditions and the relative weighting of each;
- (b) within each performance condition, the targets set when the performance condition was agreed and corresponding value of the award achievable; and
- (c) for each performance condition, how the company performed against the targets set for that condition measured over the relevant reporting period.

(3) Where the company had a discretion in respect of an award, there shall also be set out—

- (a) whether the discretion was exercised;
- (b) if so, at what stage in the performance cycle and how, that discretion was exercised.

(4) There shall also be set out what was the resulting level of award.

9. For each item in column “d” of the table in paragraph 4 the company will report the percentage deferred and whether it was deferred in cash or shares, if relevant.

*Total pension entitlements*

10.—(1) The directors’ remuneration report must, for each person who has served as a director of the company at any time during the relevant financial year, contain the information in respect of pensions that is specified in sub-paragraphs (2) – (4).

(2) Where the person has rights under a pension scheme that is a defined benefit scheme in relation to the person and any of those rights are rights to which he has become entitled in respect of qualifying services of his, the details of the person's accrued benefits under the scheme as at the end of that year, assuming a normal retirement date and the date the benefit becomes receivable.

(3) The total value of any additional benefit that will become receivable to a director in the event that that director retires early.

(4) Where a person has rights under more than one type of pension benefit identified in column "c" of the table in paragraph 4, the relative weighting of each type of benefit.

*Loss of office payments*

**11.** The directors' remuneration report must for the relevant financial year show, for each person who has served as a director of the company at any time during that year, the total amount of—

- (a) any compensation for loss of office paid to or receivable by the person, broken down into what element of pay made up that compensation and the value of each element;
- (b) an explanation of how the payment was calculated;
- (c) any other payments paid to or receivable by the person in connection with the termination of qualifying services;
- (d) an explanation of how discretion allowed for within the policy on exit payments was exercised.

*Variable pay awarded during the financial year where the value will be determined according to the achievement of performance conditions in future periods*

**12.** The directors' remuneration report must contain a table setting out—

- (a) details of the scheme interests awarded to the person during the relevant financial year; and,
- (b) for each scheme interest—
  - (i) a description of the type of interest awarded,
  - (ii) a description of the basis on which the award is made,
  - (iii) the face value of the award,
  - (iv) the maximum value at vesting if above that set out under sub-paragraph (iii),
  - (v) the percentage that would vest at threshold performance,
  - (vi) the end of the period over which the qualifying conditions for that interest have to be fulfilled (or if there are different periods for different conditions, the end of whichever of those periods ends last); and
- (v) a summary of the performance criteria if not set out elsewhere in the report.

*Comparison of overall performance and pay*

**13.—(1)** The directors' remuneration report must contain a line graph that shows—

- (a) a line drawn by joining up points plotted to represent, for each of the financial years in the relevant period, the total shareholder return on a holding of shares of that class of the company's equity share capital whose listing, or admission to dealing, has resulted in the company falling within the definition of "quoted company", and
- (b) a line drawn by joining up points plotted to represent for each of the financial years in the relevant period, the total pay for any director fulfilling the role of chief executive officer as calculated under the provisions of paragraph 3.

(2) For the purposes of sub-paragraph (1), "relevant period" means the ten financial years of which the last is the relevant financial year.

(3) Where the relevant financial year is—

- (a) prior to the company's tenth financial year, sub-paragraph (2) has effect with the substitution of "two", "three" or "four" and so on (as the case may be) for "ten"; and
- (b) the company's first financial year, "relevant period", for the purposes of sub-paragraphs (1) and (4), means the relevant financial year.

(4) For the purposes of sub-paragraph (1), the “total shareholder return” for a relevant period on a holding of shares must be calculated using a fair method that—

- (a) takes as its starting point the percentage change over the financial year in the market price of the holding;
- (b) involves making—
  - (i) the assumptions specified in sub-paragraph (5) as to reinvestment of income, and
  - (ii) the assumption specified in sub-paragraph (7) as to the funding of liabilities, and
- (c) makes provision for any replacement of shares in the holding by shares of a different description.

(5) The assumptions as to reinvestment of income are—

- (a) that any benefit in the form of shares of the same kind as those in the holding is added to the holding at the time the benefit becomes receivable; and
- (b) that any benefit in cash, and an amount equal to the value of any benefit not in cash and not falling within paragraph (a), is applied at the time the benefit becomes receivable in the purchase at their market price of shares of the same kind as those in the holding and that the shares purchased are added to the holding at that time.

(6) In sub-paragraph (5) “benefit” means any benefit (including, in particular, any dividend) receivable in respect of any shares in the holding by the holder from the company of whose share capital the shares form part.

(7) The assumption as to the funding of liabilities is that, where the holder has a liability to the company of whose capital the shares in the holding form part, shares are sold from the holding—

- (a) immediately before the time by which the liability is due to be satisfied, and
- (b) in such numbers that, at the time of the sale, the market price of the shares sold equals the amount of the liability in respect of the shares in the holding that are not being sold.

(8) In sub-paragraph (7) “liability” means a liability arising in respect of any shares in the holding or from the exercise of a right attached to any of those shares.

#### *Statement of directors’ shareholding*

**14.** The directors’ remuneration report must, in respect of each person who was a director in the financial year, set out—

- (a) any requirements on a director to own shares in the company and state whether or not those requirements have been met;
- (b) total numbers of shares and share options in respect of that director—
  - (i) of which the director is the legal owner,
  - (ii) which have been awarded subject to deferral on satisfaction of conditions other than performance conditions,
  - (iii) the award of which are subject to performance conditions.

#### *Consideration by the directors of matters relating to directors’ remuneration*

**15.—(1)** If a committee of the company’s directors has considered matters relating to the directors’ remuneration for the relevant financial year, the directors’ remuneration report must—

- (a) name each director who was a member of the committee at any time when the committee was considering any such matter;
- (b) state whether any person who provided to the committee advice, or services, that materially assisted the committee in their consideration of any such matter and name any person that has done so;
- (c) in the case of any person named under paragraph (b), who is not a director of the company, state—
  - (i) the nature of any other services that that person has provided to the company during the relevant financial year;
  - (ii) by whom that person was appointed, whether or not by the committee and how they were selected;
  - (iii) the amount of fee or other charge paid by the company to that person for the provision of the advice or services referred to in (b) and the other services referred to in (c)(i) and the basis on which it was charged.

(2) In sub-paragraph (1)(b) “person” includes (in particular) any director of the company who does not fall within sub-paragraph (1)(a).

(3) The above provision also applies to a committee which considers remuneration issues during the consideration of an individual’s nomination as a director.

*Statement of shareholder voting*

**16.** The directors’ remuneration report must contain a statement setting out in respect of the annual general meeting held in the financial year to which the report relates—

- (a) in respect of the resolution to approve the report on the previous financial year, of the votes cast, the number of votes for, against and abstentions;
- (b) in respect of the resolution to approve the report on remuneration policy for the coming financial year, of the votes cast, the number of votes for, against and abstentions;
- (c) where in either (a) or (b) there were substantial shareholder votes against the resolution, where known to the company, the reasons for that vote and any actions taken by the directors in response to that.

## PART 4

### THE POLICY PART

**17.** The directors’ remuneration report must identify the date of commencement of the financial year or other date on which it is intended that this part of the report shall take effect.

*Future policy table*

**18.** The directors’ remuneration report must contain in the form of a table a description of each of the elements comprised in the remuneration package for the directors of the company.

**19.** In respect of each of the elements described in the table there shall be set out the following information—

- (a) how that element supports the short and long-term strategic objectives of the company (or group);
- (b) an explanation of how that element of the remuneration package operates including whether there are any provisions for the recovery of sums paid or the withholding of the payment of any sum by reference to the performance or behaviour of a director;
- (c) the maximum potential value;
- (d) what performance metrics, if any, are used, the relative weighting of each and the period of time over which they are measured;
- (e) whether that element formed part of the remuneration package in the last policy part and if so, whether there have been any changes to that element and if so why.

**20.** There shall accompany the table notes which—

- (a) explain the differences (if any) in the policy on the remuneration of directors from the remuneration of other employees generally (both within the company, or where the company is a parent company, the group);
- (b) in respect of any scheme falling within paragraph 5(e) above, explain why any performance conditions pay were chosen, and
- (c) if any entitlement of a director in respect of any scheme falling within paragraph 5(e) above is not subject to performance conditions, an explanation of why that is the case.

*Service contracts*

**21.** The directors’ remuneration report must contain a statement setting out all the provisions that relate to remuneration contained in the directors’ service contracts.



*Scenarios*

**22.** The directors' remuneration report must set out in graphical form what remuneration the company expects the directors to obtain if, in respect of the threshold set for performance criteria, the performance achieved (a) meets, (b) exceeds or (c) falls below that the threshold.

**23.** For each scenario it must show—

- (a) the total amount of remuneration; and
- (b) the proportion of pay made up by each element of pay in that scenario.

*Relative importance of spend on pay*

**24.—(1)** The directors' remuneration report must set out the percentage change in—

- (a) profit;
- (b) dividends, and
- (c) overall expenditure on pay (as a whole)

in the reporting period compared to previous years.

(2) "Profit", "dividend" and "expenditure" shall have the same meaning as is relevant in respect of the preparation of the accounts of the company.

*Exit payment policy*

**25.** The directors' remuneration report must summarise and explain the company's policy on—

- (a) the duration of contracts with directors, and
- (b) notice periods, and termination payments, under such contracts.

**26.** The directors' remuneration report must also state the policy on which the determination of the termination payment will be made including—

- (a) how each element of the payment will be calculated;
- (b) whether the company will distinguish between—
  - (i) types of leaver or
  - (ii) the circumstances under which a director left;
- (c) how performance will be taken into account;
- (d) any contractual provision agreed prior to the commencement of these regulations that could impact on the quantum of the payment.

*Statement of consideration of conditions elsewhere in company and group*

**27.** The directors' remuneration report must contain a statement of how pay and employment conditions of employees of the company and of other undertakings within the same group as the company were taken into account when setting the policy for directors' remuneration.

**28.** The statement must also set out whether, and if so, how, the company consulted with employees when drawing up this policy part.

**29.** The statement must also set out—

- (a) whether any comparison metrics were taken into account and if so, what those metrics were, and how that information was taken into account;
- (b) how these specific items of information were taken into account when determining directors' remuneration.

**30.—(1)** The directors' remuneration report must also set out the percentage increase in pay of any director fulfilling the role of chief executive officer and that of all of the employees generally, or if this is considered by the directors as an inappropriate comparator, such other comparator group of employees identified by the directors, with a statement setting out why that group was chosen.

(2) Where the company is a parent company, the statement shall relate to the group and not the company.



*Statement of consideration of shareholder views*

**31.** The company shall state whether, and if so how, any views expressed by shareholders either at the previous annual general meeting or during the financial year were taken into account in the formulation of the policy.

**PART 5****PROVISIONS OF THE REPORT WHICH ARE SUBJECT TO AUDIT**

**32.—**(1) In Part 1 of the report the following paragraphs are subject to audit.

(2) Paragraphs 3 - 9 and 10 – 12.

**PART 6****INTERPRETATION AND SUPPLEMENTARY**

**33.—**(1) In this Schedule—

“amount”, in relation to a gain made on the exercise of a share option, means the difference between—

- (a) the market price of the shares on the day on which the option was exercised; and
- (b) the price actually paid for the shares;

“company contributions”, in relation to a pension scheme and a person, means any payments (including insurance premiums) made, or treated as made, to the scheme in respect of the person by anyone other than the person;

“defined benefit scheme”, in relation to a person, means a pension scheme which is not a money purchase scheme in relation to the person;

“emoluments” of a person—

- (a) includes salary, fees and bonuses, sums paid by way of expenses allowance (so far as they are chargeable to United Kingdom income tax or would be if the person were an individual),
- (b) and any profit achieved but
- (c) does not include any of the following, namely—
  - (i) the value of any share options granted to him or the amount of any gains made on the exercise of any such options;
  - (ii) any company contributions paid, or treated as paid, in respect of him under any pension scheme or any benefits to which he is entitled under any such scheme; or
  - (iii) any money or other assets paid to or received or receivable by him under any long term incentive scheme;

“money purchase scheme”, in relation to a person, means a pension scheme under which all of the benefits that may become payable to or in respect of the person are money purchase benefits in relation to the person;

“pension scheme” means a retirement benefits scheme within the meaning given by section 150(1) of the Finance Act 2004 which is—

- (a) operated on behalf of the company or
- (b) one to which the relevant company paid a contribution during the period of account;

“qualifying services”, in relation to any person, means his services as a director of the company, and his services at any time while he is a director of the company—

- (a) as a director of an undertaking that is a subsidiary undertaking of the company at that time;
- (b) as a director of any other undertaking of which he is a director by virtue of the company’s nomination (direct or indirect); or
- (c) otherwise in connection with the management of the affairs of the company or any such subsidiary undertaking or any such other undertaking;

“retirement benefits” means relevant benefits within the meaning given by section 612(1) of the Income and Corporation Taxes Act 1988;

“shares” means shares (whether allotted or not) in the company, or any undertaking which is a group undertaking in relation to the company, and includes a share warrant as defined by section 779(1) of the 2006 Act;

“share option” means a right to acquire shares;

“value”, in relation to shares received or receivable on any day by a person who is or has been a director of the company, means the market price of the shares on that day.

(2) In this Schedule “compensation in respect of loss of office” includes compensation received or receivable by a person for—

- (a) loss of office as director of the company, or
- (b) loss, while director of the company or on or in connection with his ceasing to be a director of it, of—
  - (i) any other office in connection with the management of the company’s affairs, or
  - (ii) any office as director or otherwise in connection with the management of the affairs of any undertaking that, immediately before the loss, is a subsidiary undertaking of the company or an undertaking of which he is a director by virtue of the company’s nomination (direct or indirect);
- (c) compensation in consideration for, or in connection with, a person’s retirement from office; and
- (d) where such a retirement is occasioned by a breach of the person’s contract with the company or with an undertaking that, immediately before the breach, is a subsidiary undertaking of the company or an undertaking of which he is a director by virtue of the company’s nomination (direct or indirect)—
  - (i) payments made by way of damages for the breach; or
  - (ii) payments made by way of settlement or compromise of any claim in respect of the breach.

(3) References in this Schedule to compensation include benefits otherwise than in cash; and in relation to such compensation references in this Schedule to its amounts are to the estimated money value of the benefit.

(4) References in this Schedule to a person being “connected” with a director, and to a director “controlling” a body corporate, are to be construed in accordance with sections 252 to 255 of the 2006 Act.

**34.—**(1) For the purposes of this Schedule emoluments paid or receivable or share options granted in respect of a person’s accepting office as a director are to be treated as emoluments paid or receivable or share options granted in respect of his services as a director.

(2) Where a pension scheme provides for any benefits that may become payable to or in respect of a person to be whichever are the greater of—

- (a) such benefits determined by or under the scheme as are money purchase benefits in relation to the person; and
- (b) such retirement benefits determined by or under the scheme to be payable to or in respect of the person as are not money purchase benefits in relation to the person,

the company may assume for the purposes of this Schedule that those benefits will be money purchase benefits in relation to the person, or not, according to whichever appears more likely at the end of the relevant financial year.

(3) In determining for the purposes of this Schedule whether a pension scheme is a money purchase scheme in relation to a person or a defined benefit scheme in relation to a person, any death in service benefits provided for by the scheme are to be disregarded.

**35.—**(1) The following applies with respect to the amounts to be shown under this Schedule.

(2) The amount in each case includes all relevant sums paid by or receivable from—

- (a) the company; and
- (b) the company’s subsidiary undertakings; and
- (c) any other person,

except sums to be accounted for to the company or any of its subsidiary undertakings or any other undertaking of which any person has been a director while director of the company, by virtue of section 219 of the 2006 Act (payment in connection with share transfer: requirement of members’ approval), to past or present members of the company or any of its subsidiaries or any class of those members.

(3) Reference to amounts paid to or receivable by a person include amounts paid to or receivable by a person connected with him or a body corporate controlled by him (but not so as to require an amount to be counted twice).

**36.**—(1) The amounts to be shown for any financial year under Part 3 of this Schedule are the sums receivable in respect of that year (whenever paid) or, in the case of sums not receivable in respect of a period, the sums paid during that year.

(2) But where—

- (a) any sums are not shown in the directors' remuneration report for the relevant financial year on the ground that the person receiving them is liable to account for them as mentioned in paragraph 35(2), but the liability is thereafter wholly or partly released or is not enforced within a period of 2 years; or
- (b) any sums paid by way of expenses allowance are charged to United Kingdom income tax after the end of the relevant financial year or, in the case of any such sums paid otherwise than to an individual, it does not become clear until the end of the relevant financial year that those sums would be charged to such tax were the person an individual,

those sums must, to the extent to which the liability is released or not enforced or they are charged as mentioned above (as the case may be), be shown in the first directors' remuneration report in which it is practicable to show them and must be distinguished from the amounts to be shown apart from this provision.

**37.** Where it is necessary to do so for the purpose of making any distinction required by the preceding paragraphs in an amount to be shown in compliance with this Part of this Schedule, the directors may apportion any payments between the matters in respect of which these have been paid or are receivable in such manner as they think appropriate.

**38.** The Schedule requires information to be given only so far as it is contained in the company's books and papers, available to members of the public or the company has the right to obtain it."

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made under section 421 of the Companies Act 2006 (c.46) (“the Act”) and substitute for Schedule 8 of the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 (S.I. 2008/410) (“the 2008 Regulations”) a revised Schedule.

Regulation 3 substitutes the provisions of the Schedule to these Regulations for Schedule 8 of the 2008 Regulations and regulation 2 makes consequential amendments to regulation 11 of those Regulations.

The provisions of the Schedule contain the requirements for the content of the directors’ remuneration report required to be prepared in accordance with section 420 of the Act. It provides that the report shall contain a summary statement by the chairman of the remuneration committee, a report in respect of the past financial year and a statement of the future remuneration policy of the company.

## Annex C: The Consultation Code of Practice Criteria

108. Formal consultation should take place at a stage when there is scope to influence policy outcome.
109. Consultation should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
110. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
111. Consultation exercise should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
112. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
113. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
114. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

### Comments or complaints

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

Sameera De Silva,  
BIS Consultation Co-ordinator,  
1 Victoria Street,  
London  
SW1H 0ET

Telephone Sameera on 020 7215 2888  
or e-mail to: [Sameera.De.Silva@bis.gsi.gov.uk](mailto:Sameera.De.Silva@bis.gsi.gov.uk)

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