Reward agenda

REPORT OF OUR ROUNDTABLE DISCUSSIONS
(NOVEMBER 2023 – FEBRUARY 2024)

DLA PIPER

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Our Reward Agenda initiative has now been running for four years, with the objectives of helping company secretaries and other governance professionals to keep abreast of reward matters, and helping reward professionals navigate within the governance framework.

Governance, and sustainability more generally, continue to be a focus for many businesses. Remuneration policies, therefore, need to support a company's sustainable, long-term success, and sufficient time and resources need to be allocated to them. Reward – and executive compensation in particular – should not, however, distract from other priorities of the board and senior leaders.

London's standing in the world has recently been the subject of much debate and there are numerous initiatives to breathe life back into the London Stock Exchange. Although there are no doubt more significant factors at play, executive remuneration has taken a substantial (and, arguably, disproportionate) amount of the airtime. The "big tent" conversation about UK executive pay was discussed at all of our roundtables this year. It will be interesting to see whether the debate brings about any changes to executive remuneration when we run these sessions in 2024/25.

Since we began this initiative we have been joined by representatives from more than 10% of the FTSE 100, together with contributors from companies throughout the FTSE 250 and beyond. Our sessions are held under the Chatham House Rule, and our report is compiled on an anonymous basis. We have sought to gather together the common themes and highlight some of the more valuable insights from our sessions.

We hope you find our report interesting.

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Summary

This report summarises some of the themes that were covered at our Reward Agenda roundtables, including the following:

- Although companies continue to feel economic pressures, many of our contributors felt that these have eased. Many companies, however, still feel some pressure to show restraint in executive remuneration – a factor that can present its own challenges, as it can affect recruitment and retention. Concerns for wider-employee pay that were brought into sharper relief by the cost-of-living crisis continue to be on the agenda for remuneration committees.
- The "big tent" conversation on executive pay generated considerable debate at our roundtables. Contributors held mixed views on the extent to which the state of UK executive remuneration affects London's competitiveness, but many agreed that it is a factor in recruitment. The way in which investor guidelines are expected to evolve was generally well received, but a number of contributors reacted with some scepticism as to how impactful this will be.
- In particular, contributors were doubtful as to whether developments in corporate governance and investor expectations would simplify executive remuneration. One possible consequence of the developments may be that we begin to see more variety in the remuneration structures that companies choose to operate, such as the use of hybrid structures. Many of our contributors, however, felt that the ongoing use of performance conditions would be the right choice for their companies. Malus and clawback will also continue to be a feature of executive remuneration.
- As is often the case, investor engagement was a common topic at our sessions and, in particular, companies' frustrations with it. Proxy agencies came in for their share of criticism. Engaging with investors is invariably disproportionately time-consuming and not always effective. Contributors were, on the whole, not optimistic that it is likely to improve any time soon.
- The evolving role of the remuneration committee is often a topic of discussion at our roundtables, and it never seems to get any easier. A number of contributors shared frustrations at the way in which the dynamics of the system seem to result in remcos that are overly conservative. A particular focus was on the effectiveness of the Corporate Governance Code requirements relating to "significant" votes against.
- ESG and sustainability continue to be on the agenda for remuneration committees. The way in which these topics are incorporated into incentive plans seems likely to continue to evolve for some time to come.
- Our sessions sparked some lively discussion about wider employee reward, particularly in relation to financial education and all-employee share plans. Although not historically topics that have necessarily been the preserve of the remuneration committee, remcos are increasingly engaging in this area. At a number of our sessions we discussed the fundamental purpose of all-employee share plans, and in particular how design features that are common in executive plans do not necessarily translate well into all-employee incentives.

The economic backdrop

Reward cannot be divorced from the wider economic context, and the challenges of high inflation and low growth naturally affect decisions about remuneration.

When we ran these sessions during the 2023 AGM season, there were concerns about the growing cost-of-living crisis. This continues. It does, however, now seem that economic pressure is easing. Average wage growth in the UK rose above inflation in August for the first time in almost two years, and continued to do so as 2023 closed out.

Many of our contributors indicated that their companies still feel the pressure to show restraint in executive remuneration, but the consensus seemed to be that the pressure had eased from 2023. That said, there continues to be a concern (both within companies and among investors) for the wider employee population.

This is reflected in remuneration committees' increasing consideration of wider workforce pay (*see 'Wider employee reward', below*) and the continued focus on ESG matters (*see 'ESG and sustainability', below*), as companies look to benefit the societies in which they operate. There is an expectation that employees share in the benefits of a company's success, and remuneration committees increasingly consider (and are expected to consider) that this falls within their remit.

High pay for executive directors is invariably a sensitive topic and this is amplified during tougher macro-economic circumstances. As always, remuneration committees must balance these sensitivities with what is right for the company. Contributors have in the past shared frustrations that it is more difficult to justify pay increases for incumbent directors than it is to justify a higher package on recruitment. We did, however, hear encouraging examples of companies that had successfully explained to investors that a significant pay rise for an internal promotion was the right thing to do. In some cases this was based on the changing profile of the company.

Pressure to show restraint during more difficult economic circumstances is arguably inevitable, but this does not come without consequences. If executive remuneration has become less competitive and if a correction is needed (two suppositions on which there is by no means consensus – *see 'The "big tent" conversation on executive pay' below*), then restraint may be exacerbating the issue. An effective CEO that delivers success for the company can benefit all of its stakeholders, including its employees. At some of our sessions we discussed whether too much restraint may not necessarily be what is best for the company in the long-run.

The “big tent” conversation on executive pay

In May 2023 Julia Hoggett, CEO of the London Stock Exchange, called for “a ‘big tent’ conversation” on executive pay policies. She argued that certain attitudes to executive pay often hamper companies in attracting and retaining domestic and international talent that can drive innovation, jobs and growth.

Hoggett argued that certain proxy agencies and asset managers have opposed executive pay policies in the UK that they would not have opposed elsewhere, most notably in the US. As a result of this, there is a lack of a level playing field for UK companies and downside risks for the UK. In Hoggett’s view, the UK is at a pivotal moment, presented with a choice between remaining an attractive place for companies to base themselves, or standing by as they leave.

This drove considerable debate over the course of 2023 and in November the Capital Markets Industry Taskforce (**CMIT**) published an open letter on the UK’s approach to corporate governance, the premise of which being that a competitive City is critical for a successful economy. In its letter the CMIT argued in favour of a balanced and constructive dialogue with shareholders in relation to remuneration policy, which includes UK listed companies enjoying a level playing field with listed and private market peers in Europe and the US. It argued that, at present, the divergence has become a significant recruitment and retention issue, talent drain and a growing deterrent to listing in the UK. The CMIT emphasised that quantum should be considered separately from structure.

In February 2023 the Investment Association (**IA**) sent a letter to FTSE 350 remuneration committee chairs, indicating that the IA is coming round to some of these arguments, as the IA acknowledged that some companies find it increasingly challenging to attract US executives and to compete in the US market because of the difference in pay levels. The IA stated that it intends to conduct a fundamental review of its Principles of Remuneration later this year with a view to simplifying them, reflecting evolving member expectations on remuneration and feedback from companies. There are, therefore, indications that remuneration committees may be given more latitude than has been the case in recent years.

These developments provided much material for discussion at our roundtables.

The degree to which executive remuneration has contributed to London losing market share to other markets (particularly the US) is debatable, and there are certainly a number of other significant factors, such as valuations and access to capital. There are also a number of non-reward related initiatives to increase London’s standing, which were beyond the scope of our sessions. Many contributors confirmed, however, that constraints around executive remuneration (both in terms of quantum and structure) had presented recruitment challenges, particularly where they are competing with US listed or private equity owned businesses.

Many contributors were encouraged by the noises coming from the IA. Others treated the developments with more scepticism, suggesting that systemic conservatism within the executive remuneration ecosystem might make it unlikely that we will see significant changes any time soon. There are a number of factors that contribute to this, including the way in which remuneration committees can be inherently cautious (*see ‘The role of the remuneration committee’, below*), and the way that some risk-averse remuneration consultants do not encourage them to be bolder. Fear of the reputational consequences of being seen as responsible for a “low vote” was considered a factor in this behaviour. The most frustrating challenge, however, seemed to be the perennial challenges of shareholder engagement and, in particular, the influence of proxy voting agencies (*see ‘Engagement with investors’, below*).

The complexity of executive pay

Although debates about executive pay often focus on quantum, there are other features that are perceived to devalue UK executive remuneration, such as increased bonus deferral, holding periods, share ownership requirements, malus and clawback, and discretionary adjustments.

One topic that made a re-appearance was that of post-cessation shareholding requirements. These have been with us since the 2018 UK Corporate Governance Code came into effect, but, as one of our contributors remarked, companies have not necessarily had any departures since then and so may not have had to engage with the topic in practice. We discussed the preference for use of nominee arrangements to add teeth to the requirements, as well as some of the more nuanced aspects, such as spousal transfers, divorce and death.

These features are intended to increase alignment and to manage risk, and, although there was not always agreement at our sessions as to how well they serve their purpose, many of our contributors agreed that we are unlikely to see significant changes to them.

(There is an irony in the fact that much of the complexity has been driven by investment bodies who have simultaneously called for simple reward structures.)

Certain voices have argued that there is too much of a focus in the UK on disincentivising failure, and not enough on promoting a company's success. This sentiment resonated with a number of our contributors, and several laid some of the blame at the feet of the British media, which can demonise executives and executive pay.

In this context, a number of contributors emphasised the human aspects of executive pay. Executive directors are not just responsible for other people's investments; they are usually also successful businessmen and women, and it is not unreasonable that they expect to be able to enjoy some of the upsides of their success. As one contributor put it, they should be able to live the life of an executive. This becomes more difficult as so much of their remuneration is locked up and they are typically not in receipt of their reported pay.

Clearly corporate failure should be a bad outcome for all involved, but the long-term success of a company (which is in the interests of all stakeholders, whether shareholders, employees, customers or society at large) cannot be achieved without taking some risk. Our contributors did not generally expect to see executive remuneration becoming less complex, but there were some indications that we might begin to see more variety from company to company (*see 'Alternative remuneration structures', below*).

One contributor shared a particularly positive view on the significant disclosure and shareholder engagement burdens to which UK listed companies are subject, explaining that their company really values the opportunity that these obligations provide to set out the company's purpose and its ethos. Whilst recognising that this can be a frustration with regard to executive remuneration and consequently detrimental to recruitment at that level (*see 'The "big tent" conversation on executive pay', above*), it can actually aid recruitment elsewhere in the organisation, as individuals understand what the business is about and want to work for it. It can also give the company a platform to become more embedded in its communities (*see also 'ESG and sustainability', below*).

Alternative remuneration structures

In its January 2024 letter the IA acknowledged a growing interest from some UK companies to use hybrid incentive schemes that incorporate both performance and restricted shares. Such structures are more common in the US market. These structures provide some downside protection, which aids retention, but also offer more leveraged payouts for exceptional performance. One argument in favour of such an approach is that it is smoother overall.

There was acknowledgement that different companies in different markets and at different stages of maturity are looking to achieve different things, and their incentive plans need to reflect this. The noises from the IA at least suggest that a tolerance for more variety may develop. We discussed at some of our sessions whether companies feel that they are allowed "to think outside the box", or whether they feel compelled to stick with a conventional performance share plan (**PSP**).

Our contributors' companies operated a range of long-term incentive structures, including variations of restricted share plans. More traditional PSPs were more common and the majority of contributors felt that these were working. Their executives and investors were broadly happy with incentives being subject to performance conditions.

One of the disadvantages of performance-based long-term incentives in general (and highly leveraged one-off plans in particular) is the challenge of what to do if and when it becomes obvious that they are not going to pay out. The plans lose their potency and companies face a retention issue if they do not implement an alternative. It is not uncommon for companies to feel the need to change performance conditions when it becomes clear that the targets will not be met, thus undermining the original purpose of the plan. A recent Court case (*Fasano v Reckitt Benckiser Group Plc and another [2024] EAT 7*) serves as a reminder of this. In this case Reckitt Benckiser successfully defended a discrimination claim following its decision to waive performance conditions for continuing employees and not for leavers (some of whom had retired).

One contributor shared an experience of a below-board employee who was upset that their award would be subject to performance testing when it vested early on a takeover – not because they objected to performance testing in the context, but because they hadn't realised it was subject to performance conditions in the first place! Another shared an experience of an executive who didn't realise he had an LTIP at all. If senior employees are not aware of their specific performance conditions, one has to wonder whether the performance conditions are serving their intended purpose.

There is an interaction between the setting of performance conditions and the use of discretion. Although companies can, in theory, use discretion to correct performance outcomes that do not reflect the wider context, upwards adjustment remains very difficult in practice. This is a source of frustration and, as a consequence, companies need to be particularly careful when setting targets, so as not to fall hostage to fortune.

In general, our contributors were sceptical as to whether we are likely to see a decrease in the use of performance conditions, as their shareholders (investors and executives) often like them. Performance conditions themselves may evolve (and ESG-related conditions are now common – *see 'ESG and sustainability' below*), and the use of restricted share elements may increase, but on the whole our contributors did not seem to think we are likely to see a fundamental shift in executive remuneration structures any time soon.

The role of the remuneration committee

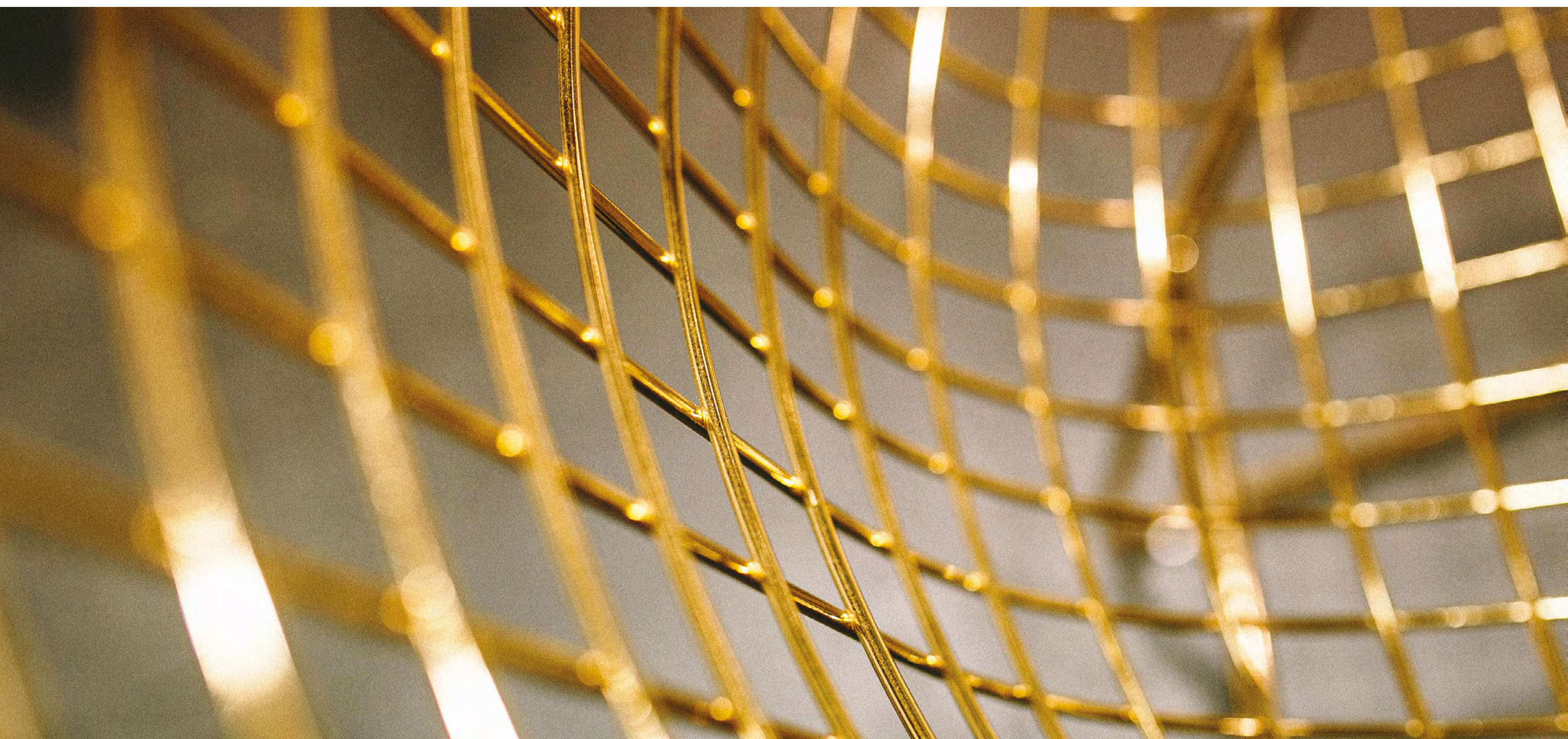
Remcos, naturally, have to balance a number of competing interests: investors, executives, the public, their own reputations, and more. The way in which remcos can feel overly constrained by shareholder expectations has been a common theme of our roundtables over the years, and frustrations with shareholder engagement were discussed this year as well (*see 'Engagement with investors', below*). As a consequence, remuneration committees may not be able to act with as much flexibility or innovation as would be ideal, and this can hinder the effectiveness of executive remuneration.

A number of our sessions this year also considered other factors that may cause remuneration committees to gravitate to conservative decisions. This is partly explained by the way in which remuneration committee members are mindful of their personal reputations, which they carry with them from one company to another. It is often not in a remco chair's interest to have a reputation for going against the grain.

Advisers must take some responsibility for this as well. Many of our contributors and their remcos value highly the advice of their remuneration consultants and other advisers. Some, however, expressed frustration that advisers entrench cautious positions, encouraging remcos to follow market practice and "to stay in the pack". Like the remco members they advise, a remuneration consultant must balance many factors and does not necessarily want to gain a reputation for significant votes against shareholder resolutions, particularly given that their firms are named in the directors' remuneration report, together with their fees.

Some of our contributors agreed that they would like to see remuneration committees be bolder, but felt that this would be difficult given the dynamics of the system. At some sessions we discussed how important it is for executives to be part of the conversation, as they are closer to the business and will typically have a clear view on what will make a difference. Our contributors did not think that changing NED remuneration would make a difference (feeling that remco members are generally not financially motivated). Bolder remcos may, therefore, depend on a combination of further relaxation of corporate governance expectations (such as in relation to "significant" votes against (*see 'Significant votes against', below*)) and in remco members being sufficiently robust to tolerate lower votes in favour.

Some contributors felt that remcos' natural caution was compounded by the way in which they find it difficult to respond, as a business sometimes changes quicker than a remco can handle. Much depends on the personalities involved, but a number of contributors felt that more regularity to meetings would be preferable. More meetings would, however, increase the burden on the NEDs involved. Several contributors indicated that there is a notably different atmosphere in remcos as compared with other committee meetings, and that the role of a remco member never seems to get any easier.



Significant votes against

A number of contributors suggested that cautiousness among remcos and remuneration consultants is to be expected given the nature of the environment in which they operate. In particular, the Corporate Governance Code requirements relating to "significant" votes against proposed shareholder resolutions generated considerable debate.

As a reminder, the Corporate Governance Code requires that a company should explain what actions it intends to take and to consult with shareholders if 20% of shareholders vote against a resolution. Since 2017 companies receiving a significant vote against have also been named and shamed on the IA's public register.

There has been growing frustration that a 20% vote against should be seen as "naughty" or, indeed, as a governance failure at all. A 20% vote against is an 80% vote in favour, which would be enough to carry a special resolution at company law. One contributor commented that, if a 75% vote in favour is enough to approve a takeover, why is an 80% vote in favour seen as a rejection of certain decisions on executive pay, which are relatively insignificant in the wider context.

In its letter, the CMIT argues that the public register should be discontinued, together with the Code requirements. The CMIT makes the point that the 20% threshold is arbitrary and distorting. Many of our contributors agreed with this, feeling that remcos should not be held to a higher standard than that imposed at law.

A board should be engaging with shareholders as a matter of course and may have good reason to make decisions that some shareholders disagree with. That is fundamental to the relationship between directors and shareholders, and remcos may well be vindicated in having made the "right" decision in the long-run.

Changes to the UK Corporate Governance Code

The 2024 UK Corporate Governance Code was published in January 2024 and will apply to financial years beginning on or after 1 January 2025.

The remuneration sections of the Code remain relatively unaffected by the changes, and companies were generally pleased that certain points on which the FRC consulted were not taken forward. A proposed specific reference to remuneration committees having regard to workforce pay and conditions when determining executive pay, for example, was not included in the revised Code. However, our contributors confirmed that many remuneration committees now do this anyway.

The key remuneration changes to the 2024 Code centred around the transparency of malus and clawback, reflecting the greater emphasis in the Code on directors' adherence to their statutory duties in corporate reporting and audit. Provision 37 now provides that malus and clawback provisions should be included in directors' contracts as well as other agreements or documents that cover directors' remuneration. Provision 38 expands the information to be provided in the annual remuneration report, which should now describe the circumstances in which malus and clawback provisions could be used; why the period during which malus and clawback can be applied is best suited to the organisation, and if the provisions were used in the reporting period, the reason for doing so.

Discussions on the new Corporate Governance Code were not a significant feature of our roundtables during this AGM season. This is probably because the changes may not significantly change current market practice, with disclosure on malus and clawback generally already being relatively good (and often in the company's interest to be so). The changes do, however, perhaps serve to confirm that malus and clawback continues to be something that companies are expected to take seriously.

A one-size-fits-all approach is not appropriate for malus and clawback – something that has been acknowledged by the FRC. The FRC also recognised that disclosure can only achieve so much – it cannot, for example, support enforceability, which is an area that companies may therefore consider revisiting.

Malus and clawback are features that executives feel devalues their remuneration (*see 'The complexity of executive pay', above*). However, given that corporate governance requirements continue to increase on this topic, it seems unlikely that we will see any significant changes in market practice. As one of our contributors remarked, clawback is also a feature of US executive remuneration, so it is disingenuous to argue that this is an area where UK expectations are unjustified.

ESG and sustainability

Environmental, social and governance (**ESG**) issues and sustainability more generally are now part of the mainstay of corporate life. From a remuneration perspective, it feels that this is an area that will continue to evolve for some time, as more academic research is carried out and expectations develop.

ESG performance conditions are now a common feature of executive remuneration, but this does not come without challenges. Investors expect performance conditions to be stretching and therefore quantifiable, but many issues that fall under the ESG umbrella are notoriously difficult to measure. Certain metrics can also be an unsatisfactory proxy for the ESG issue they purport to test; the number of women at a certain level in an organisation, for example, may disguise other diversity deficiencies within an organisation.

There is, therefore, perhaps a risk of incentive plans disproportionately reflecting ESG targets that are objectively verifiable, such as emissions reductions, as opposed to other ESG matters that are particularly important to a company. There is also a risk that ESG performance metrics may be in conflict with financial ones, especially in times of inflation, rising energy costs and economic uncertainty. Remuneration committees are challenging themselves to consider the suitability of their ESG metrics within the context of the wider corporate strategy.

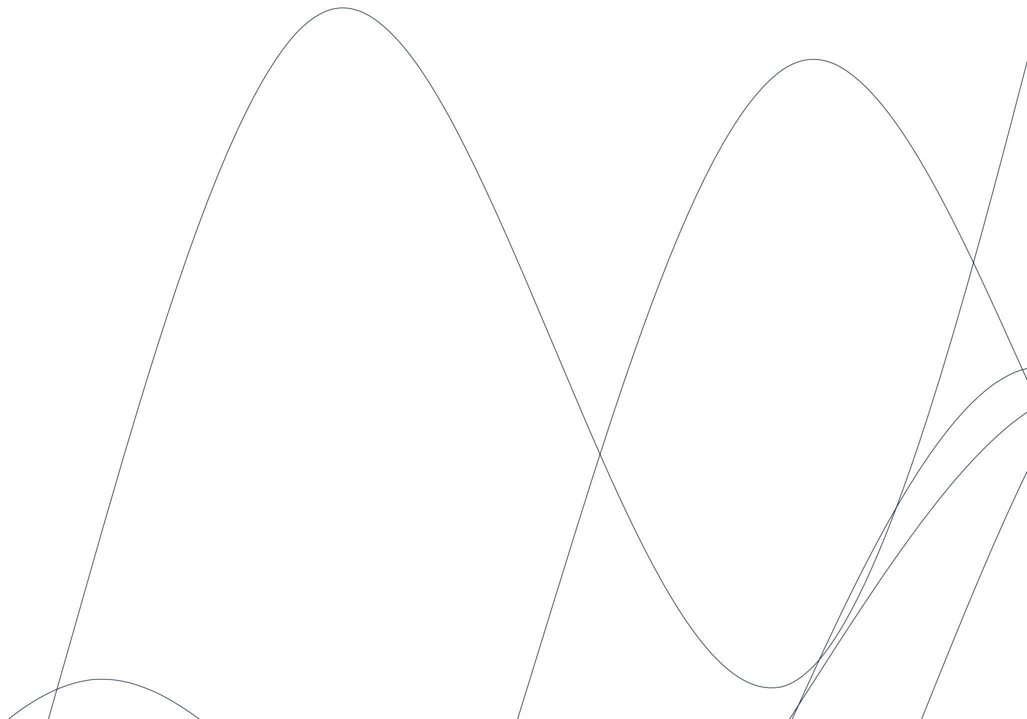
The consensus seems to be that ESG and sustainability issues will be on the remuneration committee's agenda for some time, but that practice will continue to develop. There are a number of directions in which this could go.

If the use of restricted stock (or hybrid) plans increases (*see 'Alternative remuneration structures', above*) and if the premise that strong ESG credentials correlate with better long-term performance is correct, then there is an argument that executives should become naturally aligned with ESG objectives. In practice, however, that may require a significant leap of faith.

Also, such an argument may not wash with investors. One contributor, for example, explained that his company's business is naturally aligned to ESG and ESG objectives are therefore already implicit in the overall business performance. The company's investors, however, still expect the company to incorporate specific ESG performance conditions into its incentive plans. Picking meaningful conditions is difficult and, arguably, counterproductive.

When we ran our roundtables in 2023 several contributors identified biodiversity as a key focus for investors. When we discussed this at our roundtables in 2024 our contributors' impression was that this now seems to be less of a priority for their shareholders. The way ESG and sustainability affects executive remuneration will evolve from year to year, but we expect it to remain on the agenda for some time to come.

At some of our roundtables we spoke about how all-employee share plans, especially when supported by financial education, can help a company to make a sustainable social difference for the communities in which it operates (*see 'Wider employee reward', below*).



Wider employee reward

In 2023 we heard from contributors that the pandemic and the following cost-of-living crisis had brought wider workforce pay up the agenda for remuneration committees. Many of our contributors indicated that their remuneration committees continue to take an active interest in this. Whereas such interest might once have tended more towards the cursory, our sense is that it is now more thorough and genuine.

Pay rises and quantum are at the heart of wider employee reward, particularly given the current economic climate, and particularly for companies that have large numbers of less well-paid employees. All-employee share plans are, however, another important factor and were the subject of some interesting discussions at our sessions.

A number of contributors spoke about how highly their companies value financial education as part of the wider financial wellbeing of their workforce. This might, for example, involve a clearer message on the potential benefits of joining an employee share plan or a pension scheme, and explaining how powerful compound interest can be. Some contributors felt more confident than others in knowing where to draw the line between providing information or even querying the logic of an employee's decision, and giving financial advice. Done properly this can make a real difference for employees' long-term financial situations.

We also touched on a topic that might be seen as a taboo among some share plan professionals: whether it is financially sensible for an individual to have too much financial exposure to one company (particularly when they are also employed by the same group). Some contributors shared anecdotes of employees who had lost significant amounts because of this.

In this context we spoke about the different dynamics in executive and all-employee share plans. Concepts that are fundamental to executive remuneration, such as alignment and even retention, are often considerably less relevant in all-employee plans, which, first and foremost, often function as a benefit rather than a tool for driving certain behaviours. If this is the case, then this should be reflected in the plan design. Contributors agreed that the traditional three- or five-year period over which executive plans operate can often be too long for the wider workforce. Other common design features (such as a requirement to make contributions) might make participation relatively less affordable for those who are not already comfortably well-off. Good communication of an all-employee share plan can make a significant difference to its take-up, but it is the plan design that will really determine its success.

Some companies find that all-employee share plans help to instil a culture and sense of belonging, as well as providing a means to make a positive difference in the societies in which they operate (*see also 'ESG and sustainability'*). Other contributors explained that their groups are sufficiently de-centralised that employees in the business do not feel any connection with the holding company (or, necessarily even know anything about the holding company). Again, this supports the notion that all-employee plans might be more productively thought of as a benefit than an incentive – a thought that is worth keeping in mind when designing a plan.

Although not a topic that we discussed in any detail at our roundtables, it is relevant that there has recently been some discussion about whether the IA's long-established expectations on dilution should be reconsidered. Investors currently expect share plan rules to limit the use of new shares or treasury shares to 10% of the issued ordinary share capital in any rolling 10-year period, and 5% in any rolling 10-year period in relation to discretionary schemes. The CMIT recently argued that these limits have a materially limiting effect on the ability of many issuers to incentivise employees, particularly fast-growing companies that use shares as a key part of compensation, and that this is another factor in hampering their competitiveness in the global talent market.

Engagement with investors

We talked about investor engagement at most of our sessions and numerous contributors took the opportunity to share their frustrations. The challenges of investor engagement is a common theme every year. Not only is it time consuming – some of our contributors shared experiences of NEDs who, at times, were committing as much effort as executives because of their role in investor engagement – many companies also feel they often have relatively little to show for their efforts. Tempting though it would be to opt out of engagement altogether, this is not a viable alternative, and engagement with the bigger investors is a necessity.

Common frustrations included difficulties in reaching the right person and a lack of internal consistency within certain investors. Although some contributors had enjoyed good experiences on the whole, there were frustrations with consistency from year to year, or between continents (with the same investors addressing the same issues differently for UK and US companies).

Proxy agencies bore the brunt of the frustration. The use of proxy agencies seems to have increased over the years (caused in part, perhaps, by changes to the make-up of shareholders themselves). A number of our contributors felt that the agencies now have too much influence, too little engagement and, crucially, not enough accountability. As a consequence, the impact of proxy agencies is another factor in remuneration committees finding it difficult to break from the pack (*see 'The role of the remuneration committee' above*).

Bearing in mind the number of investors who use proxy agencies and the 20% threshold for a "significant vote against", the scale of proxy agencies' influence can be distorting, as their recommendation alone can effectively bring about a perceived failure of corporate governance (*see 'Significant votes against' above*).

Some accountability for the challenges does, however, also lie at the feet of the investors themselves, especially where they effectively outsource their decision-making. One contributor explained that the message coming back too often from shareholders is that they like the company, that they don't have strong views on what the executives get paid, but that they will vote with the ISS recommendation whatever that may be. A number of our attendees even reported institutional investors indicating their support for a remuneration proposal, only for them to change tack and vote along with a contrary recommendation from a proxy agency.

The CMIT considered some of these issues in its November 2023 letter, particularly in relation to its commentary on the Corporate Governance Code concept of 'comply or explain'. The CMIT noted that the FRC has repeatedly emphasised its support for the principle that companies should feel free not to follow a conventional application of the Code if the circumstances justify it. However, this is often easier said than done, and 'comply or explain' can slip into an expectation to 'comply or else'.

There was optimism from some contributors that some shareholders will agree to override proxy agency voting recommendations, but this involves a considerable amount of engagement, which makes it yet more time consuming. And even once an investor has been talked round, ensuring that they actually vote is another matter. Determining the vote and casting the vote often falls to different individuals at an investor, and so getting the vote out is another burden that falls on the company.

Although frustrations are often targeted at the proxy agencies, it seems unlikely that the proxy agencies' attitudes will change of their own accord. A number of our contributors agreed that they would like to see more investors taking more direct responsibility for their votes and for them to be more open to accepting justified divergence from more conventional practices.

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