WHO INFLUENCES DEBATES IN BUSINESS ETHICS? AN INVESTIGATION INTO THE DEVELOPMENT OF CORPORATE GOVERNANCE IN THE UK SINCE 1990

ESRC Centre for Business Research, University of Cambridge
Working Paper No. 221

By

Ian W. Jones
Brasenose College, Oxford, OX1 4AJ
ian.jones@brasenose.ox.ac.uk

Michael G. Pollitt
Judge Institute of Management, CB2 1AG
m.pollitt@jims.cam.ac.uk

December 2001

This Working Paper forms part of the CBR Research Programme on Corporate Governance, Contracts and Incentives.

Abstract
We investigate the influences behind five major investigations into corporate governance in the UK since 1990: the Cadbury, Greenbury, Hampel and Turnbull Committees, and the Company Law Review. In each case we examine the roles of business, the authorities, public opinion and events in shaping the course of the investigation, its conclusions and its impact. We do this on the basis of interviews with members of the committees and analysis of newspaper coverage of the debates. The picture that emerges is one where the process of forming the investigating committee, its membership and its mode of operation strongly influence its recommendations and effectiveness. We draw conclusions that contrast the strong influence of the accountancy and legal professions in shaping the debate and the varied influence of the authorities, the media and events.

JEL Classification: M14

Keywords: corporate governance, business ethics, influences, Cadbury Report, Greenbury Report, Hampel Report, Turnbull Report, Company Law Review

Copyright Acknowledgement
Based on a chapter in Palgrave's forthcoming book: Jones, I & Pollitt, M (2002) *Understanding How Issues in Business Ethics Develop*. Reprinted with kind permission of the publisher.

Acknowledgements
The authors acknowledge the help of the various members of the governance committees and other informed persons who were kind enough to be interviewed in connection with this research. Cassie Moore provided excellent research assistance. We acknowledge the detailed comments of Adrian Cadbury and Tony Newton on an earlier draft. We are grateful for the financial support of the ESRC Centre for Business Research 'Ethics, Regulation and Globalisation' project. The usual disclaimer applies.

Further information about the ESRC Centre for Business Research can be found on the World Wide Web at the following address: www.cbr.cam.ac.uk

1. Corporate governance debates in the UK

Corporate governance has been defined as ‘the system by which companies are directed and controlled’[1] As such corporate governance relates to the organisation and functioning of the company board of directors. In the UK the debate about corporate governance has consisted of a number of key elements.[2]

1. The *duties of a director* with respect to the various stakeholders in a company.
2. The composition of the board with respect to the number of *non-executive* (or outside) *directors* in comparison to executive directors who are also full time managers with the company. These non-executive directors may be *independent* in the sense that they have no previous or other on-going connection with the company.
3. The presence and composition of various subcommittees of the main company board: namely the audit, nomination and remuneration committees. The *audit committe*e is responsible for reviewing the internal and external audits of the company. The *nomination committee* recommends new directors for appointment to the board. The *remuneration committee* recommends the compensation packages to be offered to the executive directors.
4. The *separation of the roles* of chairman of the board from that of chief executive.
5. The consideration of the *appropriate degree of internal control* within a company.
6. The *degree of reporting* on matters of board composition and policy in the annual report.

The 1990s have witnessed a major upheaval in the way corporations are governed in the UK. Beginning with the Cadbury Report in 1992 many corporations have been faced with a series of major changes in their board structure and their degree of reporting on issues of audit,

remuneration and the process of the appointment of directors. The Cadbury Report was a response to the widespread view that UK corporate governance lagged behind that in other countries and that this lack of best of practice had contributed to some of the spectacular collapses of listed corporations such as Asil Nadir's Polly Peck, BCCI, Coloroll and Maxwell Communications Corporation.[3] That report was followed by three more major reports: Greenbury (1995), Hampel (1998) and Turnbull (1999). The Greenbury Report responded to concern about the level of executive pay rises, especially in the privatised utilities. The Hampel Report reviewed the progress of companies in responding to the Cadbury and Greenbury Reports and made some suggestions for improvement. The Turnbull Report addressed the important issue of how to implement best practice systems of internal control. Currently (in late 2001), the Labour Government is completing a wide ranging review of Company Law that addresses aspects of corporate governance within the wider context of the Companies Act.[4]

The result of all this activity is that UK corporate governance ranks as the most open and transparent system of any in the leading industrialised countries. The UK is now ranked ahead of the US in terms of the quality of the environment facing investors on the basis of the governance practices of the firms they are most likely to invest in.[5]

The issue at the heart of development of corporate governance in the UK has been encouragement of the appropriate exercise of power by executive directors. While much of the focus has been directed at the limitation of the risk of potential abuses of executive power, the various reports have sought to encourage executives to see best practice governance as an aid to good performance.[6] The issue of the appropriate exercise of executive power is a key issue in business ethics or the 'rules of conduct according to which business decisions are made'[7].

In what follows we wish to identify the major influences on the development of the issue of corporate governance in the UK. Our aim is to attempt to identify who and what have shaped the debate about this important aspect of business ethics in the UK. We seek to do this in the context of an interest in establishing how companies might strategically interact with emerging ethical issues.

We will focus on the conduct of the committees charged with drafting the governance reports. We base our comments on interviews with members of each of the corporate governance committees and an analysis of the how the issue played out in the newspapers over the period. The aim is to help those charged with responding to ethical issues how best to deal with them in the future. In section 2 we lay out our organising framework. Sections 3 to 6 discuss the Cadbury, Greenbury, Hampel and Turnbull Reports in turn. Section 7 applies our framework to the Company Law Review. Section 8 concludes by drawing together our main findings.

2. A framework for Analysis

Our concern is to track the influences surrounding what have turned out to be the central foci for debating the ethical issues surrounding the behaviour of UK companies since 1990. We do not seek to discuss the ethical issues themselves but to look at what has influenced how they were discussed in the UK and how these influences have shaped how the issues have been dealt with. Our desire is to begin to identify where ethical issues facing companies come from, how they develop over time and what determines how they will necessitate change for the company. We do this by identifying the key sources of influence in the corporate governance debate and by breaking down the phases of each governance committee's work into a number of stages. In our subsequent detailed discussions of each of the Committee's work this provides us with a

framework for presenting our findings on what were the most significant influences on the development of the process at the key stages.

The conduct of our investigation

While much has been written on the content of the different Governance Reports in the UK, very little has been written on how the issues have developed.[8] We initially collected empirical evidence through publicly available information, amplified by lightly structured interviews with key individuals in the field, taken from ethical and corporate pressure groups and a business school. This preliminary investigation led to the development of a semi-structured questionnaire for conducting personal interviews with members of the committees and undertaken jointly by the authors. Following a 'grounded' approach, the questionnaires were an aide-memoir to ensure that relevant matters were investigated. Consistent with this approach, a model was developed of the principal factors involved.

Our approach was then to interview a member of each committee, other than the chair. The rationale of approaching someone other than the chair was that they would give a view of how the committee was conducted and of whether the prevailing view (which might be assumed to be consistent with the view of the chair) was held throughout the committee. The selection of who to interview was on the basis of selecting accessible individuals who were known to be thoughtful opinion leaders in the area.

The Influence groups

In the course of our investigation we have come across a number of significant influence groups in the area of corporate governance. We identify and discuss each of these in turn below. The influences can be roughly grouped into four sets: business (including corporates, non-financial stakeholders, financial stakeholders and professionals),

authorities (government and regulators), public opinion (media, NGOs and popular feeling) and exogenous factors (events).

Corporates
By this we mean the companies affected by corporate governance debates directly (as opposed to other companies such as pension funds concerned about the governance of companies they invest in) and key executives within them such as executive directors. This group also includes organisations that represent company interests in the UK such as the Confederation of British Industry (CBI)[9] and the Institute of Directors (IoD)[10]. Of particular concern are the publicly quoted companies most effected by the Governance debates, though all commercial organisations, small and medium enterprises and mutually owned societies can be considered part of this group.

Non-financial Stakeholders
These are those who have an interest or concern in the business that is different from ownership. This group includes a wide group of people whose economic welfare depends on or is affected by the action of companies. This group includes supplier companies, employees (and their unions), customers and those responsible for the environment.

Financial Stakeholders
This group includes pension funds and investment trusts. The group is concerned with the impact of poor governance on the performance of the shares held within the portfolios they own or manage on behalf of others. They may also be influenced, more indirectly, by consumer pressure from individual investors who want to invest in responsible companies. This group includes 'activist' fund managers such as Hermes who have publicly opposed boards with poor performance records. The group is represented by the Association of British Insurers (ABI)[11] and the National Association of Pension Funds (NAPF)[12].

Professionals
Professionals are engaged in a vocation especially requiring advanced training or knowledge. In the case of corporate governance, these are particularly the accountancy and law professions. As individuals professionals may work for business services firms or directly as executives for corporates. These groups have influenced the governance debate via their professional bodies, namely the Institute of Chartered Accountants for England and Wales (ICAEW)[13] and the Law Society[14]. The ICAEW claims to have at least one member on the board of all the leading companies in the UK.

Politicians
Politicians have influenced the corporate governance debate both in government and in opposition. In opposition politicians may co-operate with the media to raise business issues which might embarrass the government (such as with the issue of executive pay in Section 4). In government, politicians have the additional support of the civil service in organising assessments of the scope for change in the law and in threatening to enact legislation if the corporate sector does not take action. Government ministers can put high level pressure on the business community to act (such as the then Deputy Prime Minister was able to put on the CBI over executive pay in the run up to the Greenbury Committee). Other types of ministerial involvement may come through the explicit linking of business issues with a wider political agenda (as the first Labour Industry Secretary, Margaret Beckett, did in linking corporate governance issues to the stakeholding philosophy at the heart of the early Blair government).

Regulators
Corporates are regulated both by statute and by voluntary agreement. In the area of corporate governance we identify key City regulators as

being significant influences. The Bank of England (and later the Financial Services Authority)[15] was concerned about the role of poor corporate governance in corporate bankruptcy and fraud in its role of supervisor of the financial integrity of the City of London. The Bank of England had a traditional role as the overall City regulator and had set up Pro-Ned, an organisation promoting the use of independent non-executive directors. The Stock Exchange[16] was similarly concerned and has the ability to significantly influence company behaviour via its control of the listing rules, such as on reporting in company accounts, with which companies must comply if their shares are to be traded on the London Stock Exchange. The Financial Reporting Council (FRC)[17] has also been a significant player in the corporate governance debates. The FRC incorporates the Accounting Standards Board (ASB) and the Financial Reporting Review Panel. In is an independent overseer of financial reporting in the UK and is sponsored jointly by the accountancy profession, the City and the government. It was itself established in 1990 in the wake of the high profile business failures and reflects shared accountancy profession and Stock Exchange interests in financial reporting.

Media

The media includes the main means of mass communication. In the area of corporate governance this has particularly included the financial press and the popular newspapers who highlighted the issue of executive pay as it related to particular highly-paid individuals. The media has a role in picking up ideas which are of public interest and in giving 'airtime' to individuals with points of view which challenge the establishment.

Non-governmental bodies (NGOs)

NGOs are 'private organisations that pursue activities to relieve suffering, promote the interests of the poor, protect the environment, provide basic social services, or undertake community development'[18]. Within corporate governance, NGOs would include lobby groups (not included above) and research groups who are concerned with

governance, corporate social responsibility or ethics. These are usually non-commercial, but in common with many charities, may include a commercial activity. A particularly notable NGO involved with corporate governance is Pensions and Investment Research Centre (PIRC)[19] which has campaigned on various issues to do with poor corporate governance.

Popular feeling
This is the prevalent view or views held by the majority of the community with respect to corporate governance, or which relate more widely to corporate conduct or even political issues that touch on corporate governance. It acts as a spur to media reporting and NGO activity and also political concern. However it may in turn be influenced by the highlighting of issues by other groups.

Exogenous factors
These are occurrences believed to be outside the control of any of the individual actors within the economic system. Events such as a spectacular collapse of a high profile company may trigger a political or media reaction. They may also include the general state of the macro-economy and the stock market.[20] They may affect the economy directly via their effect on issues of public concern or indirectly via their impact on corporate performance and company failure rates. We would usually expect failures to be lower in economic booms and hence concern for corporate governance to be correspondingly low. We would also expect public acceptance of 'normal' business practices to be higher when the economy and the stock market are doing well and society more generally is seen to be benefiting from business activity.

The enquiry process

Based on our observations of the actual enquiry processes we now set out the key stages of the process by which each of the governance committees operated. We discuss each stage in chronological order.

Initial Interest
This refers to the stage before the committee is set up during which those influence groups who feel strongly that they want something done about a particular issue make their views known. The fact that this initial interest is significant is what brings the committee into being.

Formation of the committee
This stage includes the appointment of the chair, key members and all the members of the committee. The experience and view of corporate governance represented in the composition of the committee is a significant factor in setting the nature of the discussion and in shaping the final report. The choice of who to chair the committee, given their pivotal role in inviting others on to the committee and in discerning consensus among mostly lay members, is very important.

Terms of reference
Here we mean the remit given to the committee. This is the official terms of reference given to the committee but also includes any redefinition or elaboration that the committee may set itself, at the outset, as its working terms of reference.

Deliberation
This relates to the hows and wherefores of the principal workings of the committee, including the nature of informal and formal consultation and the issuing of draft reports. This period covers the longest part of the life-span of the committee.

Compilation of the final report
This is how the final report is put together and what influences are reflected most strongly in the written conclusions given the process of consultation that has gone on following the issuing of the draft reports.

The content of the final report
This stage represents what the final report contains. The influences on it are discussed under the previous heading. In the following sections we note what the main conclusions of the Committee reports were.

Presentation of the final report
This relates to how the Committee's final report is launched into the public domain. This includes who is present at the launch, who presents it and the willingness to involve the media at this final stage. This would include any on-going promotion of the report by the chair of the committee and his willingness to engage in subsequent debate surrounding the report.

Debate
This stage refers to the debate following the launch of the report. This identifies who the most influential shapers of the debate were. This phase may last several months.

Implementation
This is the final phase and refers to who takes the responsibility for seeing through the enactment of the report's principle recommendations. This phase is usually the longest one. This phase can be a significant part of the process, with the committees even staying in operation for a period after the publication of the report. The normal expectation however would be that the report is received by the sponsoring institutions and responsibility for overseeing the implementation process passes to them.

In our analysis we will conclude our discussion of each governance report with an assessment of the extent to which each of the influence group has influenced each stage of the enquiry process. We will assign one of four levels of influence to each group at each stage based on our assessment of the evidence. *High* indicates significant influence, *Low* a small influence and *Medium* lies in between, - implies no measurable impact.

3. The beginning of a quiet revolution – The Cadbury Committee

The UK economy experienced a prolonged period of economic growth from 1981 to 1989 under the Conservative Administration of Mrs Thatcher. However towards the end of that period the economy began to show signs of overheating, especially in 1987 and 1988, with sharp rises in GDP growth and asset prices. 1990 and 1991 were years of high inflation and negative growth.[21] Company failures rose and there were some spectacular collapses, including Asil Nadir's Polly Peck, Coloroll, Robert Maxwell's MCC and the $8bn failure of the Bank of Credit and Commerce International (BCCI).[22] These collapses were all characterised by a number of similarities: a recent clean bill of health from auditors, a flamboyant and powerful leader, a lack of action from non-executive directors and little involvement with institutional investors.[23]

These collapses caused widespread public concern, not only because of the involvement of thousands of deposit holders in the collapse of BCCI and thousands of company pensioners in the collapse of the Maxwell Empire, but because of the perception that UK industry was doing badly economically compared to other countries in continental Europe.[24]

The City was prompted to respond.[25] The Financial Reporting Council, the London Stock Exchange and the Accountancy Profession set up a committee on the Financial Aspects of Corporate Governance in May 1991. The Financial Reporting Council was concerned about the absence

of accurate reporting in the major cases of failure that would have allowed investors to spot the warning signs. The Stock Exchange was concerned about the reputation of the City with investors. The Accountancy profession was concerned about the potential liability faced by auditors who signed off a set accounts which turned out be a misrepresentation of the facts, and about losing its self-regulatory role.[26] The chairman of the Financial Reporting Council, Sir Ron Dearing, approached Sir Adrian Cadbury to chair the Committee. Cadbury had been chairman of Cadbury Schweppes Plc and was then chairman of Pro-NED, a Bank of England sponsored organisation set up to promote the use of independent non-executive directors in the boardroom. Cadbury had authored a book on how to be an effective company chairman[27] and was a respected figure in the City who had been head of a family firm.

It was Cadbury himself who drew up the terms of reference for the Committee which were:

> 'To consider the following issues in relation to the financial reporting and accountability and to make recommendations on good practice:
>
> (a) the responsibilities of executive and non-executive directors for reviewing and reporting on performance to shareholders and other financially interested parties; and the frequency, clarity and form in which information should be provided;
> (b) the case for audit committees of the board, including their composition and role;
> (c) the principal responsibilities of auditors and the extent and value of audit;
> (d) the links between shareholders, boards, and auditors;
> (e) any other relevant matters.'

(Cadbury Report, 1992, Appendix, p.61)

The Committee was formed with members[28] drawn from the CBI, the accountancy profession, finance directors, academia, the Bank of England, the Stock Exchange, the Institute of Directors, institutional investors[29] and the Law Society. The Department of Trade and Industry (DTI)[30] provided a secretary to the Committee who acted as their observer.

The Committee met monthly and produced an interim report in May 1992.[31] It was an instant literary success, with 13500 copies being distributed during the consultation period. In the interim report the Committee came out in favour of self-regulation and put a stress on the role of non-executive directors[32] It did not recommend that shareholders have a right to vote on executive pay packages[33] or seek to reverse the Caparo Case in which the House of Lords ruled that auditors only have a duty of care to management not to shareholders[34] The enforcement mechanism for the new rules was to be that a statement of the extent of compliance with the Code in a Company's Annual Report was to be made a Stock Exchange listing requirement[35]

Non-executive directors lay at the centre of the Committee's interim proposals.[36] There were to be at least three independent non-executives on the board. The role of chief executive and chairman should be split with a non-executive becoming chairman. They were to form the membership of audit, remuneration and nomination committees. Audit committees would review the internal control systems in the company, remuneration committees would set pay for executive directors and nomination committees would propose candidates to fill board vacancies.

The interim report attracted various types of criticism, indeed only one in five reactions to the interim report registered strong support.[37] From the business community there was the charge that the system it advocated was too bureaucratic. The CBI and the Institute of Directors were both critical of this.[38] The CBI in particular fought to get the

requirement that compliance with the code should be part of the listing requirements for the Stock Exchange removed.[39] Cadbury himself and the CBI traded arguments in public about this.[40] Some investment groups suggested that it did not go far enough in recommending shorter service contracts for directors, improved disclosure of executive pay in corporate accounts and better financial information. [41] Indeed there was some doubt as to whether the fundamental problem of internal control was being addressed.[42] Auditors felt that the requirement on them to verify compliance with the code was difficult to implement because of the difficulty of giving verifiable opinions on whether the company was a going concern or had appropriate internal controls.[43] Other commentators raised the issue of whether Cadbury's faith in self-regulation would mean that he would not go far enough (Finch, 1992). Indeed the fact that Cadbury obviously looked to the US for ideas must have limited his radicalism.[44]

Adrian Cadbury continued to stress to those in the business community that thought the idea of a code was too bureaucratic, that unless companies were seen to take action, others who did not understand business so well and had a more doctrinaire approach would do so (i.e. government legislation was a real possibility).[45] Although the CBI leadership was critical of the code, Adrian Cadbury won the support of the wider CBI membership at the CBI annual conference in early November.[46] Eventually he won the debate with the CBI leadership over the need to report compliance with the code.[47]

The final version of the Report appeared at the beginning of December 1992. This was similar to the draft report except that the final report responded to CBI concerns about the role of non-executives as policemen by playing down the distinction between them and executive directors.[48] There was also an explicit distancing of the Report from support for two-tier boards[49]. Though many had reservations about the report there was widespread support in the boardroom and in the City. As one eminent City figure was quoted as saying 'you can't be against

it, you have to be for it'[50]. The media gave it a much more mixed reaction ranging from a 'raspberry'[51] to 'an ambitious remit for self-regulation'[52]. The government reaction was positive, with the Corporate Affairs minister labelling it 'an authoritative statement of what needs to be done in a crucial area'[53].

While the general reaction in the City to the report was positive several chief executives who were also chairmen were critical of it.[54] BTR's then chairman and CEO criticised the effect on the smooth operation of the board given the clear role it gave to non-executives in monitoring executives[55]. The cost of implementation was estimated to be at least 10% of the annual audit fee.[56] The Stock Exchange quickly made it clear that it was not inclined to delist those companies who refused to implement the code.[57] Others pointed out that the report did not seem to pass the Maxwell test – preventing the collapse of another Maxwell Communications Corporation.[58] Some executives wanted mandatory backing for the Report.[59] There was also a question as to whether the Report had tackled the issue of poor internal control which had been the trigger for it.[60]

The state of UK plc at the time of the Cadbury report was such that only 5 FTSE 100 companies complied with the main points of the code specifically:[61]

1. Separation of Chairman and Chief Executives
2. A majority of independent non-executive directors
3. An audit committee with a majority of non-executive directors
4. A remuneration committee with a majority of non-executive directors
5. A nomination committee with a majority of non-executive directors.

The Report had set a deadline of 30 June 1993 for the beginning of reporting compliance with the Code. By this time 54 out of 66 reporting FTSE100 companies had complied with the reporting requirement.[62] The percentage of companies with combined CEO and Chairman of the board had declined from 25% to 15%. Within a year the percentage of FTSE350 companies with remuneration and audit committees had doubled and the percentage with nomination committees was rising.[63]

The Committee continued to meet to monitor compliance with the code. It set up a working party to look at the area of internal controls in the company. This working party was under the chairmanship of Paul Rutteman, a technical partner at accountants Ernst and Young. This committee sought to devise guidelines on how a statement could be made on whether a company was a going concern and how it could define having an adequate system of internal control. This working party finally reported in December 1994, two years after the original report.[64]

The Cadbury Committee ceased to operate in May 1995 when Sir Adrian bowed out with the presentation of a report on the implementation of Cadbury Code. This report indicated an impressive change in boardroom behaviour[65]. Among FTSE250 companies the percentage with an independent audit committee had risen from 45% to 87%; the percentage with a nomination committee had risen from 8% to 60%; the percentage with a remuneration committee had risen from 60% to 98%. Only 7 companies had a combined chairman and chief executive with no named lead non-executive director as suggested by the code. The problem area for implementation was among the smallest 250 listed companies where although compliance had risen sharply there was still only a small minority of companies with independent audit or nomination committees.[66] There was also a problem of just looking at the letter rather than the spirit of recommendations.[67]

Many institutional investors and some parts of the media had noted that the original Cadbury Report did not address the issue of executive pay in great detail[68] (focussing instead on disclosure and transparency). In particular the reporting of pay levels and the process for determining executive pay were not discussed. Into 1994 this issue began to dominate the financial reports in the press on corporate governance. It was becoming clear that this was an issue that would have to be addressed.

The original report had specified that the issues of corporate governance should be re-examined by a successor committee to be set up no later than June 1995.[69] This was to give business a chance to implement the Code and to consider its effects. The successor to the Cadbury Committee was to be the Hampel Committee.

Influences

We summarise and highlight the key influence groups on each stage of process of the development of the Cadbury Committee in Table 1. Again, *High* indicates significant influence, *Low* a small influence and *Medium* lies in between, - implies no measurable impact. Initial interest in corporate governance was wide-ranging against a background of recession (an exogenous factor). Financial stakeholders and accounting and legal professions realised the business threat that poor internal control and board accountability caused (all were represented on the committee). The government took an active interest in the issue given the bad light that it shed on the deregulated system that they wished to promote. This influence was exercised through encouragement from the Bank of England[70] at the time of formation of the Committee and the presence of a DTI representative on the Committee. Adrian Cadbury had an excellent pedigree as a former company chairman, the head of the Bank of England's enterprise to promote non-executive directors (Pro-NED) and a member of the Court of the Bank of England. The Bank's influence on the committee also came via the presence of the Bank's

advisor on corporate governance on the committee. Public interest and media attention on well-publicised failures prompted the formation of the Committee. There was only a low-key involvement of corporates in the initial phase, largely via Cadbury's own business background.

Professionals (and their regulators) dominated the formation of the Committee, with the Financial Reporting Council taking the lead in recruiting members and in setting the terms of reference of the Committee. Media interest waned as the investigation progressed. At the presentation of the findings Corporates were targeted in order to get them to buy in to the findings, their interests were robustly represented (by the CBI and vocal individual CEOs) in the subsequent debate and their acceptance of the recommendations was the key to successful implementation. The media followed the launch of the report and the subsequent debate around its recommendations but interest waned over the long period between 1992 and 1995 when Cadbury himself made his valedictory report on implementation. The Stock Exchange's agreement to make it a listing requirement that companies report on their degree of compliance with the Code was an essential element of regulatory promotion of the recommendations.

4. The Greenbury Committee and the Issue of Executive Pay

As we noted above it was recognised that a very specific issue that the Cadbury Report had not dealt with in great detail was the level (and rate of increase) of executive pay.[71] The Cadbury Report had recommended the establishment of a Remuneration Committee consisting wholly or mainly of non-executive directors, but the details of its policies had not been examined.[72] In the two years following the publication of the final report this became a hot political issue, with newspapers highlighting three year contracts, large perks and large pay increases.[73] Pension funds indicated that they wanted to see a greater link between pay and performance.[74] The Labour Party opposition, assisted by the newspapers, highlighted the issue of 'fat cat' pay, particularly latching on to the large

pay rises which many executives in privatised utilities received. Gordon Brown, then Labour's treasury spokesman, highlighted the fact that utility privatisation had created 50 millionaires among executives including all 14 of the chairmen of the regional electricity companies.[75] A rallying point became the 75% pay rise announced in 1994 for the chairman of British Gas, Cedric Brown, who then became the target of a 'Cedric the Pig' campaign at the May 1995 British Gas AGM.[76] This campaign struck a nerve with the public at a time of relatively high unemployment, and independent evidence that revealed that there was no discernible link between pay increases and company performance.[77] At the end of 1994 it was reckoned that £7bn of a total of £10.5bn of executive share options in listed UK companies did not relate to performance.[78]

The issue was highly embarrassing to the government, which was already politically unpopular. Ministers were reportedly split on whether to approach the CBI to do something or to put pressure on shareholders to take action to punish under-performance.[79] The campaign on executive pay shed a rather poor light on one of their most spectacularly successful policies – utility privatisation – and led to embarrassment at perceived market excesses for a pro-business government. Michael Heseltine, the Deputy Prime Minister, with responsibility for the presentation of government policy, was concerned to distance the government from the issue. He reportedly put pressure on the CBI to look into the matter and see if something could be done.[80] In public he threatened legislation if business did not clean up its act.

It was Heseltine who approached Richard Greenbury, chairman of Marks and Spencer, to head a committee to look in to the issue of executive pay. The committee that Greenbury formed had no formal sponsors, but was supported by the CBI which provided for the secretarial and publication costs. The committee consisted of seven company chairmen, the head of the Institute of Directors, and two

leading investment fund managers.[81] The committee sat for the first time in early 1995. The terms of reference were:

> 'To identify good practice in determining Directors' remuneration and prepare a Code of such practice for use by UK PLCs.' (Greenbury Report, 1995, para 1.2, p.9)

The committee met at Marks and Spencer's head offices and produced two draft reports before a final report was published in September 1995. The interim report had no specific criticism of the pay schemes at utilities – the issue that had led to its formation. However this was corrected in the final report.[82] There was also a debate about whether executive pay should remain the prerogative of the board or should be the subject of a resolution at the AGM – an option which some of the investment organisations favoured.[83]

The final report's recommendations centred around new disclosure requirements and the functioning of the remuneration committee made up of non-executives, who would determine both individual executive pay and pay policy.[84] Remuneration Committee chairmen should be directly accountable to shareholders (rather than just the board).[85] There were recommendations on the elements of good policy which should be focussed on the alignment of the interests of directors and shareholders. Remuneration Committees were to give attention to incentivising long-term performance by avoiding issuing share options at a discount. Directors' service contracts should be a year or less. As with the Cadbury Report, enforcement was to be via a statement in the annual report by the remuneration committee which would explain any areas of non-compliance. Such a statement was to be Stock Exchange listing requirement. Annual reports were also to carry details of each individual director's pay package rather than just those of the chairman and highest paid executive.

The reaction to the Greenbury Report was largely negative. The Labour Party announced that it was not satisfied with the report and that it would ban share options for all privatised utilities.[86] The toughness of the report was questioned because it allowed British Gas to claim that it was now at the leading edge of best practice, simply because it reported its policies.[87] There was also a debate about whether share options should be treated as income rather than as capital (and hence taxed more highly).[88] Both the CBI and IoD expressed worries that the report had not gone far enough in regulating business behaviour.[89] Corporates complained about the compliance burden that the new code placed on them.[90] Only the government seemed satisfied,[91] perhaps because the Committee had achieved its political purpose of deflecting a lot of the criticism away from it.

The issue of executive pay continued to rumble on long after the Report. The Labour Party wrapped it up into the justification for their Windfall Tax on utilities plan which they enacted soon after coming to power in 1997. The issue of executive pay is regularly aired in the newspapers as it has continued to rise faster than average earnings and to bear little relationship to the underlying performance of companies. If the intention of Greenbury was to make pay more responsive to performance, this seems to have failed. Indeed it has been claimed that the large amount of information on pay which is available has encouraged pay rises, as comparisons of executive pay are now easier.[92] However remuneration committees in practice do not appear to have much ability to influence pay, per se, as they rely on advisors to tell them what the 'going-rate' for a particular executive is. As one member of the committee puts it 'the answer is obvious from the analysis of pay charts – to the nearest 1000 pounds'. Executive pay in the UK is determined largely by market forces (which may not be efficient), not by the nature of the corporate governance.[93]

In 1999 the government initiated a follow-up consultation on directors' remuneration.[94] Following a lengthy consultation process by the DTI, in March 2001 Stephen Byers, then Secretary of State for Trade and Industry, announced that the government was planning to introduce secondary legislation to require quoted companies to publish a report on directors' remuneration in their annual report.[95] The legislation would specify the contents of such a report which would include individual directors' remuneration packages, the role of the board's remuneration committee, the boards' remuneration policy and other disclosure requirements including a company performance graph. The stated aim of this legal underpinning to the recommendations of the Greenbury Report was the desire to strengthen the link between boardroom pay and performance. In October 2001 the government further announced that the new legislation on boardroom pay would also include a provision for an annual resolution to be put to shareholders on whether they accept the remuneration report.[96] Whether this will have any value in restraining directors' pay is highly questionable given the immediate post-Greenbury experience.

Influences

The key influence groups at each stage of the process of development of the Greenbury Committee are summarised in Table 2. The table indicates the important initial roles for government, media, popular feeling and events. All of these influences reflected the fact that the privatisations of the 1990s gave rise to huge pay rises for the executives involved. British Gas was just one case, indeed it already complied with most of the recommendations of Greenbury before the report was published and had good corporate governance. However the media were able to take such events and highlight them successfully because of genuine public concern about such pay rises.

The government reacted to such events because of political reality. This led them to take the lead in the formation of the committee with the help of the CBI and the company chairmen involved in the committee. Institutional investors were also significant, both on the committee, and in putting pressure on companies to reform. These groups continued to be significant through the process, with the government threat of legislation promoting implementation and the rise of activist fund managers pushing for more revelation in annual accounts and asking questions of companies that did not comply. The regulators played no role until the implementation phase, when listing requirements of the Stock Exchange were invoked to enforce the code. Non-financial stakeholders, such as individuals as customers of utilities, played some role at the beginning of the process [97].

Interestingly the media and the public played no role in the formation of the committee or in the setting of its terms of reference. Greenbury had a poor relationship with the media[98] and the committee was made up of senior executives and did not consult with the media or the wider public. The composition of the committee and its poor interaction with media during the whole process undoubtedly contributed to the poor media reception of the report. Given the nature of the issue, which meant that the problem was largely intractable, the Committee would have done well to involve more of its critics in its deliberations in order to achieve more of a public consensus on the issue. The benefits for the business community of doing this are illustrated in the case of the Company Law Review in Section 7.

5. The Hampel Committee or Cadbury II

The Hampel Committee started life in a paragraph[99] of the Cadbury Report that specified that the code on corporate governance was to be reviewed after 3 years. By 1995 the Cadbury Report, in spite of earlier disquiet, had been widely accepted and was viewed as having brought about significant and worthwhile changes in behaviour.[100] Only a few of the more maverick FTSE100 chairmen continued to speak out against it, mainly from those few companies which continued to combine the role of chairman and chief executive in the person of a long-standing powerful individual.[101] The chairman of the Financial Reporting Council, which had been instrumental in setting up the Cadbury Committee, announced in April 1995, that there would be a review.[102] However the media comment on corporate governance continued to highlight the issue of executive pay. Towards the later part of the year it emerged that two prospective chairmen had been approached but in the light of the difficulties Sir Richard Greenbury was experiencing had turned down the opportunity to head 'Cadbury II'.[103] Eventually in November Sir Ronnie Hampel, then chairman of ICI, was announced as head of the committee.[104]

The committee was established with the support of London Stock Exchange, the CBI, the IoD, the Consultative Committee of the Accountancy Bodies, the National Association of Pension Funds and the Association of British Insurers. Representatives of each of these organisations were approached to be on the committee.[105] The involvement of the investment community represented by insurance and pension fund representatives was a notable addition to the range of backgrounds present on the original Cadbury committee and reflected the importance of the investment community in ensuring good governance.[106]

The Committee's terms of reference were:

'to promote high standards of Corporate governance in the interests of investor protection and in order to preserve and enhance the standing of companies listed on the Stock Exchange. The committee's remit will extend to listed companies only. Against this background the committee will:

(a) conduct a review of the Cadbury code and its implementation to ensure that the original purpose is being achieved, proposing amendments to and deletions from the code as necessary;
(b) keep under review the role of directors, executive and non-executive, recognising the need for board cohesion and the common legal responsibilities of all directors;
(c) be prepared to pursue any relevant matters arising from the report of the Study Group on Directors' Remuneration chaired by Sir Richard Greenbury;
(d) address as necessary the role of shareholders in corporate governance issues;
(e) address as necessary the role of auditors in corporate governance issues; and
(f) deal with any other relevant matters.

Without impairing investor protection the committee will always keep in mind the need to restrict the regulatory burden on companies, e.g. by substituting principles for detail wherever possible.' (Hampel Report, 1998, Annex, p.66)

The first meeting of the committee did not take place until end of January 1996.[107] The government was very unpopular and the Labour Party was continuing to campaign against executive pay and windfall profits from utilities. Labour made it clear that it expected the Hampel Committee to provide some clear leadership in the area of governance or else it would act in government.[108] A draft Labour Party manifesto in June 1996 made it clear that legislation would wait for the outcome of

the report.[109] There was also a suggestion that the Labour Party might establish an expert panel on corporate governance.[110] From the beginning however Hampel made it clear that he was not a radical and that radical changes were unlikely to be recommended by the committee.[111]

The committee met in ICI's offices and received a large number of submissions on the subject of governance.[112] This delayed the publication of a draft report until August 1997.[113] In this draft the Committee emphasised the need to get back to establishing good principles of governance before codes. The City was relieved that the report favoured no more radical reform and that the momentum for more corporate governance regulation had been stopped.[114] Hampel's recommendations endorsed Cadbury's original report but did not significantly seek to strengthen it. The reaction to the draft was decidedly mixed.[115] Hermes, the independent activist fund manager, thought that it had not clarified the role of an independent director.[116] The IoD wanted more direction on what long-term incentive packages should be offered to executives.[117] The Industry Secretary, speaking at the CBI conference, indicated that the Labour Party (now in government) considered that both corporate governance and company law should be beefed up. [118] The labour unions were concerned that nothing was being done to address short termism towards investment in the UK.[119] Hampel himself expressed concern about the negative reaction to the draft report while there were fears that report would not go far enough to divert legislation.[120]

The final report was published towards the end of January 1998. The principal recommendations were that companies should include in their annual accounts a narrative statement of how they apply 'the relevant principles' to their particular circumstances. The principles that were highlighted were: that chairman and chief executive should be separated and if they were not this should be explained; there should be a balance between non-executive and executive directors; nomination committees, recommended by Cadbury, should be recognised as good practice; and that all directors should submit themselves to regular re-election. A lead

non-executive director should be identified through whom concerns could be raised if there was no separation of chair and chief executive. The Hampel report stated that individual directors should not take part in decisions on their own remuneration package. Remuneration policy should remain a matter for the board.[121] The board should maintain a sound system of internal control, though it was not specified how it should do this. Hampel supported the recommendations of Cadbury that audit committees should be made up of non-executive directors. Overall the report can be seen as endorsing Cadbury while not recommending anything new such as allowing shareholders to vote on executive pay packages.

Having been widely discussed at the draft stage there was limited reaction to the publication of the final report. However the day after the publication Margaret Beckett announced that there would be a widespread review of company law.[122] This provoked some pleas from the City that self-regulation should be given time to work and that the review should not be too wide-ranging.[123] However the Hampel Report was widely seen as letting business off lightly.[124]

A combined code, drawing together the Cadbury, Greenbury and Hampel recommendations, was published by the London Stock Exchange in June 1998.[125]

By 1998 the UK was widely recognised as leading the world in the area of corporate governance.[126] The Cadbury report had had time to filter through the leading companies in the UK and several other countries had initiated similar reviews of their corporate governance and come to similar conclusions, inspired by the Cadbury report. However considered comment pointed out that governance reforms had made little difference to executive pay and that reforms still did not pass the Maxwell test.[127] Governance was not crucial to performance, with evidence continuing to suggest that more non-executives on a board did not improve performance and that companies combining chief executive

and chairman tended to do better. The evidence was that governance was not the crucial determinant of performance and that self-regulation could only go so far in improving underlying competitiveness.[128]

Influences

The key influences in the development of the Hampel Report are outlined in Table 3. The Hampel report was foreseen in the Cadbury report and the Financial Reporting Council, representing the accountancy profession and the Stock Exchange, was the institution that ensured the carrying out of the Cadbury recommendation. The key role of the accountancy profession in auditing governance statements might explain why professionals were keen to re-examine the issue and if possible promote the corporate governance industry. Given the wide-ranging and initially uncomfortable adjustment following Cadbury, corporates had little interest in further reform and other non-financial stakeholders had no particular interest.

However corporates were well represented on the committee, especially in the person of the chairman. Financial stakeholders were significantly represented in pushing for further debate on the accountability of boards to shareholders and on the committee itself. The government had little influence, in contrast to Greenbury, except in that terms of reference reflected concerns about possible legislation. The media, NGOs, popular feeling and events played little role. The report appears to have been little influenced by the threat of government action, though this was very real. This may have been because as the economy recovered and the rate of bankruptcies fell corporate governance per se, as opposed to the levels of executive pay in particular, was not a matter for political concern. The increasingly pro-business stance of the 'New' Labour Party and the lack of public identification with the issues may have meant that the threat of legislation was largely seen as an empty one. The Hampel report may not have been that significant in itself, but it did

however seem to coincide closely with the government's call for a fundamental review of Company Law.

6. The Turnbull Committee and Internal Control – tying up unfinished business.

The initial impetus to set up the Cadbury Committee had arisen because of a lack of adequate internal control systems within the high profile corporate failures in the late 1980s. A well functioning internal control system should 'facilitate [a company's] effective and efficient operation by enabling it to respond to…risks. This includes the safeguarding of assets from inappropriate use or from loss and fraud, and ensuring that liabilities are identified and managed'.[129] Internal control systems do this by providing for appropriate oversight of financial transactions undertaken by the company through the specification of authority structures, appropriate information and communication process and a capacity to review the ongoing effectiveness of internal control arrangements.

Although the Cadbury Report did discuss the need for effective internal control, that did not turn out to be its main focus. It delegated a detailed review of internal control to a successor committee. This turned out to be the Rutteman Committee which eventually published a long report in 1994. The Rutteman Report received quite limited coverage and was not widely perceived as having closed the matter of appropriate internal control systems in UK corporate governance. The Hampel Report reiterated the need for a sound system of internal financial control. However there was no guidance on what the system should look like apart from the requirement that the need for an internal audit function should be reviewed regularly if it does not exist[130].

The Institute for Chartered Accountants in England and Wales (ICEAW) and the Stock Exchange discussed the need for more detailed guidance following the publication of the Hampel Report. They drew up the terms

of reference for a new governance committee that was to conclude the work that the Cadbury Committee had started. The committee was sponsored by the ICAEW and chaired by Nigel Turnbull, then Chief Financial Officer of Rank Group plc and also Chairman of the Technical Committee of the 100 Group of leading UK companies. The Institute took the lead in suggesting names to the Stock Exchange of who should be on the committee.

The Turnbull Report intended to:

> 'reflect sound business practice whereby internal control is embedded in the business processes by which a company pursues its objectives; remain relevant over time in the continually evolving business environment; and enable each company to apply it in a manner which takes account of its particular circumstances.' (Turnbull Report, 1999, para.8, p.4)

The first meeting took place in late autumn 1998 and the committee met monthly until April 1999. The members of the committee were mostly trained accountants and the committee was able quickly to produce an interim report in April 1999.[131] The earlier Rutteman Report had concluded that it was not possible to specify how to improve internal control but just internal financial control. The Rutteman Report was technical and compliance with it was specified by the Stock Exchange as an interim target. However the Turnbull Report attempted to remain more general and go back to first principles on how to make sure risk management was embedded within the system of the company. The Turnbull Report recommendations superseded the Rutteman guidance.[132]

The final report was published in September 1999 and specified the elements of a sound system of internal control, the process for reviewing effectiveness of internal control procedures, the need for a board statement on internal control and discussed the appropriateness of having an internal audit function. It concluded that the elements of a

sound system of internal control should be embedded within the operations of a company, form part of its culture, be capable of quick response to evolving risks and include well specified procedures for reporting warning signs. The process for reviewing effectiveness should be well defined, involving continuous monitoring and annual assessment. The annual board statement on internal control should include a statement on how the company has applied the Turnbull code principles, state that there is a process in place, summarise the process that it has used to review effectiveness and not make any disclosures that are misleading. Companies are recommended to have an internal audit function. However where they do not have one there should be an annual review of the decision not to have one and disclosure in the annual report about the presence or absence of an annual review of this decision.

The Turnbull Report was short and to the point and generally perceived as having completed the work left unfinished by Hampel in this area.[133] The reaction to the report was positive with business accepting its practical recommendations. The report was seen to be timely as 58% of businesses surveyed wanted to improve their system of internal control.[134] The precise nature of the recommendations mean that they may well, quietly, have far reaching effects in reducing the likelihood of the sort of scandals that promoted the ten year review of corporate governance in the UK.[135]

Influences

The main influences on the Turnbull Report are outlined in Table 4. Events had some influence on the setting up of the committee via the drivers behind the Cadbury report, the perceived narrowness of the subsequent Rutteman report and the unfinished business in the Hampel Report. The Stock Exchange (the regulator) and accountancy profession were the main actors behind the need to complete the work on reforming this aspect of corporate governance. To some extent corporates wanted guidance and financial institutions saw the need for guidance (there was a representative from the pensions industry on the committee).

The committee was mainly made up of representatives who were members of the accountancy profession (8 out of 10 members).[136] This reflected the perceived technical nature of the issue and this clearly had a big influence on the final recommendations. Although the Hampel Committee invited a significant amount of interest at the outset and during its deliberations, there is no discernible media or public interest in the development of the Turnbull Committee and no government influence over it. Corporates were involved in the debate over the interim report and were important in accepting and implementing the recommendations of the report. Once again, the incorporation of reporting requirements into listing rules by the Stock Exchange was an important driver of implementation. The report was drafted by the staff members from the ICAEW on the committee and the presentation of the report was led by Turnbull himself.

It is interesting to note that government and private sector interest in corporate governance began to diverge ahead of the Turnbull Report. The government initiated the company law review shortly after the publication of the Hampel Report. This review continues to examine the big picture of what companies are for in a modern economy while the private sector focuses on filling in some of the details missed in earlier reports.

7. The Company Law Review: the government considers active intervention in corporate governance

The election of a Labour government in May 1997 signalled the end of the 18 year era of strongly pro-business and largely laissez faire Conservative administrations in the UK. In opposition the Labour Party had been critical of the government for inaction on the issue of executive pay and critical of the lack of progress which private-sector led governance initiatives had achieved. The new administration's first Secretary of State for Trade and Industry, Margaret Beckett, was open to the possibility of government legislation should the Hampel Report fall short of what the government wanted.[137] Following the publication of the Hampel Report in January 1998, Mrs Beckett announced a wholesale review of Company Law in March 1998.

Company Law covers a large number of pieces of legislation relating to the behaviour of companies and their directors (see DTI, 1998). The most important current act is the Companies Act 1985 which consolidates previous legislation. However the many of the key principles in this Act are based on the Joint Stock Companies Act of 1844 and the Limited Liability Act of 1855. Since these formative pieces of legislation there were major consolidations of the law in 1908, 1929 and 1948. The last major review took place under the Jenkins Committee which sat from 1960-62. Thus a pattern of major review every twenty or so years was established. By 1997 Company Law was generally considered to be well overdue for such a review in the light Britain's entry into the EU and legal developments around the world. The government identified a number of issues in need of attention in the current legislation: over-formal language; excessive detail; over regulation; complex structure; and obsolescent provisions.[138]

However there was also the issue of corporate governance. The introduction to the Company Law Review acknowledged the contribution of the Cadbury, Greenbury and Hampel Reports and that

‘the issues dealt with under the new (Combined) Code are more suitable for best practice than legislation’[139]. However it was noted that ‘there may however be a need for legislation in certain areas which are not covered by the new Code, or where experience shows that some legal underpinning is needed.’[140] Some of the example areas for investigation are: the duties of directors (in particular whether shareholders should have a duty to take other stakeholders’ views into account in addition to shareholders), the conduct of AGMs (to encourage shareholder resolutions and voting) and shareholder control over executive pay (in order to keep executive pay rises down). We note that all of these areas were heavily debated in the light of earlier recommendations. Thus while the motivation for the process known as the Company Law Review was not primarily driven by the perceived failure of private sector governance initiatives there is no doubt that the timing of the Company Law Review (immediately following Hampel) and its scope were influenced by the earlier governance reports.

Thus the terms of reference for the Company Law Review are as follows: to consider how core company law can be modernised, to consider whether enough legal vehicles exist for business at all levels, to consider the proper relationship between company law and non-statutory standards of corporate behaviour, to review the extent to which foreign companies operating in the UK should be regulated under British Law and to make recommendations accordingly.[141]

The motivation for the Company Law Review has come from the government, strongly influenced by the Law Society. The Company Law Review has been conducted by a Steering Group and associated working groups. The Steering Group has been responsible for overseeing the process and this met once a month while it was in operation between 1998 and mid-2001. Working groups were chaired by members of the steering group and met as often as bi-weekly. The Steering Group was chaired by a civil servant from the DTI. The whole process has been overseen by a senior official appointed by the DTI, who also sat on each

of the working groups. The Review has been as inclusive as possible with a further Consultative Committee reviewing the work of the other groups. The Steering Group has also been responsible for producing a number of consultation documents which have taken the process forward so far. The Steering Group consisted of broad mix of people including academic lawyers, practising lawyers and company executives, economists and one journalist.[142] It worked on the basis of consensus.

The Steering Group has produced four major documents in February 1999, March 2000, November 2000 and July 2001 which develop the overall framework and a number of other papers relating to specific aspects of the law such as company formation, law concerning overseas companies.[143] The final main report (DTI, 2001) includes proposals for an inclusive statement of directors' duties which would require directors to take into account the implications for the company over time and of wider relationships, such as those with employees, suppliers, customers and the wider community. The report also proposes an operating and financial review that would allow for greater transparency for public companies and large private companies. The report steers clear of the issue of executive pay as this was the responsibility of a separate consultation. The report has restated a commitment to preserving the 'comply or explain' approach of the Combined Code rather than converting parts of the Code into substantive requirements.[144]

Margaret Beckett moved from Trade and Industry in mid-1998 soon after the launch of the Company Law Review. Since then two more pro-business ministers held the post until the June 2001 election, and the issue of Company Law Review seems to have left the news agenda.[145] The government is now (November 2001) considering how to respond to the Steering Group's final report. The issue of corporate governance is much less political than it was ten years ago, with the economy enjoying steady economic growth and corporate failures at a low level. It may be that it will take a fresh recession and or a new set of corporate scandals to reveal sufficient weaknesses in the system of corporate governance to

prompt further radical re-examination in either the public or private sectors.

Influences

The influences on the development of the Company Law Review are summarised in Table 5. Although it is not possible to comment on the last three stages of the process which have yet to be completed it is possible to comment on the other stages. Business has had a considerable input into the process mainly via the law profession, with additional influences from non-financial stakeholders such trade unions concerned about the impacts of merger decisions on jobs. Financial stakeholders have had some influence via direct input into the process. Corporates' direct influence especially via their representative trade organisations has been limited.

The government was the prime influence group in setting up the review process but has gradually withdrawn its direct influence as the process has progressed such that the deliberation and compilation of the report are the responsibility of the steering group and working groups. However it retained some influence via the DTI oversight of the process. Public opinion operating through the media and popular opinion has tailed away (from an initially low level) as the review has progressed. The decline in the interest of these two groups would seem to be an explanatory factor in the decline of government interest (although the government is committed to a new Companies Act). NGOs have retained a significant degree of interest in the process given that many of the provisions relate to them and they have been involved in the consultation group. The healthy economy throughout the process has ensured that there have been no significant exogenous factors influencing the process. In contrast to the other investigations into governance there has been no role for the Stock Exchange and no formal involvement from the accountancy profession.

8: Detailed Conclusions

We summarise our main findings on the influences on the corporate governance debates in the UK in Table 6. This table highlights the nature of the issues involved and the relative influence of the different groups on the process and offers an overall assessment of the process based on our perceptions, informed by the media and academic comment. On the basis of this comparison and the earlier tables 1-5 we discuss a number of conclusions in what follows of this paper.

1. Corporate governance topics attract different levels of public, political or media interest.

In general corporate governance is an abstract, technical subject which is consequently neither well understood nor of great interest to the public, politicians or the media. However, the corporate governance issue can attract much higher levels of attention as a result of being associated with other issues of public interest. In this case, the issue is not really of importance in itself but because of the wider issues that it reminds people of.

Table 6 shows that only the issue of executive pay and the associated Greenbury Report has attracted sustained public interest. This is perhaps because executive pay resonates with many wider issues such as the impact of Thatcherite policies on the economy via privatisation. It raises some the fundamental issues of the benefits of the free market vs a more egalitarian socialist economy. The more general issue of corporate responsibility raised by the Company Law Review does not so obviously link to politically charged debates and hence initial political interest in the absence of obvious electoral advantage in the issue has not been sustained.

2. The process of addressing issues of corporate governance has significantly influenced the outcome of the individual reports.

It seems very likely that the process of addressing the issue of corporate governance in the UK has significantly influenced the outcome.

Table 6 illustrates the links between the conduct of the process on the outcome. The Cadbury Committee did an excellent job because they had a visionary leader who had an enormous influence on the outcome and did a lot of work to debate the issues. The Greenbury Report did little to deal with the issue of executive pay rises because it consisted of senior executives who benefited from the status quo and hence were unlikely to propose radical changes or provide a convincing endorsement for the status quo. The Turnbull Report was focused and business-like and had a well defined professional task. The Company Law Review has been very inclusive but for that reason is unlikely to lead to radical legislation.

3. Corporate influences on the process and content of the Reports have been surprisingly weak.

The natural assumption would be that because corporations are most affected by the results of corporate governance enquiries, then they would also seek to exert the most influence on the process and content.

In fact, companies have had little influence on the early, formative stages in the enquiries, of Cadbury, Hampel, Turnbull, the Company Law Review. Nor are their representatives, the CBI and the IoD, very influential, despite what are probably very considerable efforts to reach opinion on corporate governance and related issues.

Corporate interests were probably most clearly taken account of via the person of Adrian Cadbury as a company chairman and industrialist. His report was governed by a concern to find solutions which companies

could adopt and change their behaviour. It was the pragmatic enquiry of an industrialist. The irony is that Cadbury was not chosen as a result of his association with business interests but because of his connections with financial interests. He had been a member of the Court of the Bank of England and was chairman of the Bank sponsored Pro-Ned.

The Greenbury Committee did have significant representation from company chairmen. However, corporate interest was only there because the government was pressing them hard in the light of public opinion. This committee was a response to very visible outside pressure and did not arise because of a corporate desire to shape the debate.

4. The influence of non-governmental bodies and non-financial stakeholders on the process and content of the enquiries has been very weak.

Lobby groups representing non-financial stakeholders (e.g. trade unions and consumer groups) and NGOs might have been expected to have had a significant influence on the debate given the stakeholder debate (see Hutton, 1995) which has been carried on in and around the debate about corporate governance. These groups are vocal and politically influential.

However, our research has not detected much direct influence. The governance committees show no representation from these groups and little discernible influence on the process or the outcome. There has been some involvement of these groups in the Company Law Review but it seems likely that the very fact of including them in the process is merely to reduce their ability to criticise the outcome. The language of stake-holding has been very much toned down by the Labour government as time has progressed and the consequences of the Company Law Review seem unlikely to be particularly radical in increasing the influence of non-financial stakeholders in the boardroom.

5. Institutional investors have had much less influence on the process and content of the enquiries than might have been expected.

One might argue that institutional investors, who stand to loose from poor corporate governance leading to mismanagement and fraud, have a significant interest in corporate governance. Much of the emphasis in corporate governance has been on improving the quality of published information on companies available to market participants. Investors depend on receiving accurate information so that the price represents an effective measure of the value of a firm. Institutional investors have been the subject of a separate set of investigations and consultations initiated by the first Myners Report in 1996.[146] Indeed Adrian Cadbury recently suggested that the focus in corporate governance should now shift to an examination of their role.[147]

Our research seems to indicate that institutional investors (or financial stakeholders in Table 6) have had a rather patchy influence. There was some influence on the setting up of the Cadbury and Hampel committees but very little in the case of Greenbury. Institutional investors have only been concerned with the Company Law Review (at the government's invitation) and Turnbull to a limited extent. This probably reflects the lack of activism among the investment community in the UK and it is notable that it is the activist funds such as Hermes that have made most contribution to the debate.

6. Professionals have had a significant influence on the process and content of the corporate governance debates.

Corporate governance has long been viewed as a technical subject concerned with the robustness and reliability of corporate auditing systems. This implies that professionals such as accountants and lawyers are likely to be heavily involved in the practice of corporate governance and in debates about its reform. Bad corporate governance threatens the integrity of such governance professionals, in terms of their public

reputation, and in terms of professional liability (Robert Maxwell's auditors did pay compensation). The ICAEW and the Law Society are well resourced and highly effective. We would therefore expect these professional bodies to be keen to influence the governance debate.

Our analysis suggests that accountants were a driving force behind the setting up of Cadbury, they had an influence on the terms of reference and were well represented on the committee. Similarly, there were accountants on Hampel and on the Company Law Review. The trend in UK corporate governance towards greater emphasis on measurement, audit and reporting undoubtedly reflects the influence of accountants on the process of corporate governance. It remains to be seen whether this will serve British industry well or whether it will act to reduce innovation and entrepreneurship.

7. Political influences on the process and content of the enquiries have been variable.

Corporate governance is about the executive power at the heart of capitalism. As such we would expect there to be a significant degree of political interest and influence. It is potentially an area where political influence can be brought to bear at minimal fiscal cost. However parliamentary time is scarce, the business lobby powerful and corporate governance is not usually a vote winning issue. Thus the expectation of political involvement would be a contingent one: where the corporate governance resonates with wider issues, there will be political influence, but where it does not there will be little political interest.

The evidence in Table 6 is broadly in line with this argument. Executive pay was a burning issue for the government and touched at a number of government policies on privatisation, entrepreneurship and tax where the government was criticised. The government was most active in the case of the Greenbury Report (and the whole issue of directors' pay) but their influence has been much more muted in the case of the other reports.

The lack of sustained political interest in corporate governance is illustrated by the low profile nature of the Company Law Review.

8. Financial Regulators have had a significant influence.

Failures in financial reporting triggered the initial interest in corporate governance since 1990. As such it might be expected that financial regulators such as the Financial Reporting Council, the Bank of England, the Stock Exchange and later the Financial Services Authority would have a concern to ensure appropriate steps were taken to improve financial reporting.

Corporate governance was initially promoted by the Bank of England which was very influential in the formation of the Cadbury Committee. It perceived that the integrity of the market system was at stake if financial reporting was inadequate. The Bank of England subsequently withdrew from the area of corporate governance with the privatisation of Pro-NED.[148] The Stock Exchange, in spite of suggestions that it might reduce their involvement, has continued to be very influential in the formation of subsequent committees and via its underpinning of reform via the listing rules. If volunteerism has been effective in the UK it is because of the significance of the Stock Exchange in the UK economy and power of Stock Exchange required reporting requirements to force companies to justify their systems of corporate governance. The Financial Reporting Council, as regulators of financial reporting, have acted as sponsors of the Cadbury and Hampel Reports.

9. Media influence on the process and content of the enquiry has been patchy.

One view of the media is that they create issues. Another is that they pick up issues which public opinion is concerned about. In the first case the issue is likely to die if public opinion is not interested in it.

The evidence is that the media was powerful in recognising the debate when there was an event or public issue for it to expose. Thus it featured the scandals that led to Cadbury and cases of excessive executive pay that provided the background to the Greenbury Committee. Where there was no event or public issue as was the case with Hampel and Turnbull, the media seems to have had little impact on the debate (Table 6). Interestingly, even though the stakeholder argument is one which interests the media, the media was not a trigger for the setting up of the Company Law Review.

Some of the Committees were better at handling the media than others. Cadbury worked closely with the press, as did Hampel. This paid off in terms of constructive coverage of the debates and of the final report. By contrast Greenbury seems to have made no secret of his dislike for the press and this does not appear to have helped the media reaction to his report. It is however not clear that a more robust engagement with the press about the difficulty of the issue of executive pay would have led to a better media reaction to the publication and a reduction in public disquiet about the way executive pay was set.

10. ***Events have been sufficient but not necessary conditions for governance reviews.***

When asked what influenced politics Harold Macmillan famously replied: 'Events dear boy, events'. We might therefore expect that events that raise strong public interest in corporate governance, such as business failures, shape the conduct and findings of the enquiry set up to deal with the event. The conclusion is that events are not a necessary condition for an enquiry, but can be a sufficient one.

The conduct and conclusions of the Cadbury report would support this hypothesis. The composition of the committee, the financial and structural nature of the solution reflects its origins in creative accounting and the failure of companies within six months of a clear audit. The

Greenbury Committee was also a creature of events. Turnbull, Hampel and the Company Law Review were not, except in the weak sense that they were the outcome of the earlier Committees.

11. Macroeconomic conditions have influenced the development of the debate.

It could be expected that the state of the economy has a significant influence on the approach to corporate governance. In a recession there is greater fear of company failure, the public feel good factor is weaker and executives under pressure to produce results are open to the temptation to mis-reporting. In a recession low performers are revealed for what they are and are no longer disguised by the buoyancy of the economy.

The pattern of macro-economic growth since 1990 tends to support this view. Many of the corporate excesses of the 1980s that led to the dramatic failures which stimulated the Cadbury Committee were exposed when the economy moved into recession. The principal interest in corporate governance in the UK has been when the economy was in recession in 1989 –92. It was Cadbury who recommended most radical changes to the UK system of corporate governance. Since then outside interest has diminished during the subsequent long boom. This has reduced the pressure for further radical change as evidenced by the less significant conclusions of subsequent committees.

12. Business has retained control of the governance debate since 1990.

The debate on corporate governance was initiated in 1990 by business itself in an attempt to head off interference from government. In spite of the claims of some that self-regulation was not going to be a permanent solution following the Cadbury Report[149] this has proved to be the case so far. Though there have periodically been threats of fundamental reform this not likely to be initiated in the near future. As Morris puts it:

‘if the Government can avoid legislating, it will owe much to the public relations efforts of Cadbury, Greenbury, Tim Melville Ross (IoD), and every other great and good member of the ‘something must be done’ chorus; at the very least they have proved the City’s willingness to respond to public anxiety and media criticism.’[150] The government’s recent proposals for legislating on directors’ remuneration are hardly radical and seem unlikely to have much restraining effect.

Table 6 clearly shows that business has had the most significant influence in the 4 governance committees. It seems likely to have exerted a large influence on the conduct of the Company Law Review through the constitution of the Steering Group and through the general influence of business on the Labour Party which ensures that radical changes in corporate governance in the absence of obvious electoral advantage – represented by media and public pressure- are unlikely to happen in the foreseeable future.

Notes

[1] Cadbury Report (1992, para 2.5, p.15). This is quite a narrow definition; by contrast Turnbull (1997, p.181) suggests a much broader definition: 'Corporate governance describes all the influences affecting the institutional processes, including those for appointing the controllers and/or regulators, involved in organizing the production and sale of goods and services. Described in this way, corporate governance includes all types of firms whether or not they are incorporated into law.'

[2] See Charkham, 1994, and Stock et al., 1999.

[3] See for example Franks and Mayer (1990).

[4] See www.dti.gov.uk/cld/review.htm

[5] See Davis Global Advisors Inc (2000) *Leading Corporate Governance Indicators*, p.4 available from www.davisglobal.com/publications/lcgi/lcgi_execsumm.pdf.
This shows that the UK is the leading country in terms of Corporate Governance for 1996-2000 among 7 of the world's top developed nations including the US and Japan. This is interesting because many of suggestions for the improvement of UK corporate governance were around before the 1990s: see Bob Tricker, 'Corporate Governance II – Building Better Boards, *Director*, February 1987, Vol.40, Issue 7, pp.53-4, for example.

[6] See for example the beginning of the Cadbury Report which states 'the effectiveness with which…boards discharge their responsibilities determines Britain's competitive position' (Cadbury Report, 1992, para.1.1, p.11)

[7] Jones and Pollitt (1998, p.5)

[8] For a good review of the background to the Cadbury Report see Boyd (1996); for a review of the governance debate see Cadbury (2000); for evidence on the effects of particular governance structures see Cook and Deakin (1999); for comment on the Company Law Review see Monks (2000); for a view of an alternative system see Kay and Silbertson (1995).

[9] www.iod.co.uk/home.jphtml

[10] www.cbi.org.uk/home.html

[11] www.abi.org.uk/

[12] www.napf.co.uk/

[13] www.icaew.co.uk/

[14] www.lawsociety.org.uk/

[15] www.fsa.gov.uk/

[16] www.londonstockexchange.com/

[17] www.frc.org.uk/

[18] This is the World Bank definition. See http://wbln0018.worldbank.org/essd/essd.nsf/NGOs/Home.

[19] www.pirc.co.uk/

[20] For timely support for this view see 'Leading Article: The Guinness Verdict', *Financial Times*, 28th August 1990, p.16.

[21] OECD (1991).

[22] See Jones and Pollitt (1996) for some background material.

[23] See Tony Gray, 'City View: Regulation clearly a massive failure', *Lloyd's List*, 12th December 1991, p.5.

[24] For an articulation of this view see Hutton (1995).

[25] For the background to the development of corporate governance since the 1970s see Parkinson (2000, pp.250-257).

[26] Christopher Napier, 'The Unaccountable Robert Maxwell', *Accountancy*, Vol.109, Issue 1182, February 1992, p.25-6.

[27] Cadbury (1990).

[28] See Appendix 1.

[29] The Association of British Insurers and the National Association of Pension Funds had recommended that the role of chair and CEO be split before the first meeting of the Cadbury Committee. See David Owen and Richard Lapper, 'Life at the top gets riskier: Fallout since the 1987 crash', *Financial Times*, 15th November, 1990, p.27, and Colin Narbrough, 'NAPF seeks radical changes; National Association of Pension Funds', *The Times*, 28th February, 1991.

[30] The Minister for Corporate Affairs was concerned about the role of non-executive directors. See Richard Waters, 'Minister backs calls to reform board structure', *Financial Times*, 8th December 1990, p.4.

[31] See Norma Cohen, 'The Cadbury Report: Code of practice relies on threat of public censure', *Financial Times*, 28th May 1992, p.12.

[32] Cadbury Draft Report (1992, para.3.6, p.9).

[33] Cadbury Draft Report (1992, para.4.35, p.20).

[34] Cadbury Draft Report (1992, Appendix 4, p.56-7).

[35] Cadbury Draft Report (1992, para.1.3, p.5).

[36] Cadbury Draft Report (1992, para.4.7-4.14, pp.13-14).

[37] See Lisa Buckingham, 'Business gives lukewarm approval to Cadbury plans', *The Guardian*, 13th August 1992.

[38] For reports of these exchanges see T. Clarke (1993), 'Corporate Governance: The State of the Art', *Managerial Auditing Journal*, Vol.8, No.3, pp.3-7, and Norma Cohen, 'CBI and IoD attack corporate governance reform plan', *Financial Times*, 30th July 1992, p.18.

[39] See Norma Cohen, 'Cadbury is backed by Exchange', *Financial Times*, 1st August 1992, p.4, and Michael Cassell, 'Cadbury warns on boardroom best practice', *Financial Times*, 11th November 1992, p.11.

[40] See Norma Cohen, 'Cadbury plan for monitoring directors may be changed', *Financial Times*, 14th September 1992, p.16.

[41] Lisa Buckingham, 'Of boards, buddies and bad practice: Many of Britain's blue chip companies would fail to meet proposed improvements in standards of corporate governance', *The Guardian*, 13th June 1992, p.37, and Norma Cohen, 'Cadbury proposals prove unpalatable: Reaction to the report', *Financial Times*, 3rd August 1992, p.5.

[42] For an early criticism of the Cadbury Report's weakness on internal audit see Andrew Jack, 'Cadbury report criticised', *Financial Times*, 27th June 1992, p.4.

[43] Andrew Jack, 'Doubts raised on Cadbury proposals', *Financial Times*, 7th August 1992, p.6.

[44] For an example of US influence see Cadbury Report (1992, para.4.33, p.27) on audit committees. It was pointed out that in the US board sub-committees were more extensive but so were abuses of corporate power ('In Search of Better Boardrooms', *The Economist*, 30th May 1992, p.13).

[45] See Michael Cassell, 'Cadbury warns on boardroom best practice', *Financial Times,* 11th November 1992, p.11.

[46] See 'Call for directors to state reasons for resignation', *The Daily Telegraph*, 11th November 1992, p.31.

[47] See 'CBI loses out over Cadbury Report', *The Evening Standard Europe Intelligence Wire*, 24th November 1992.

[48] See Lisa Buckingham, 'Cadbury drive to rebuild trust in the way business is run relies on market: Final code aims to stop buccaneers becoming pirates and lift earnings – Lack of enforcement agency flawed', *The Guardian,* 2nd December 1992, p.12.

[49] Cadbury Report (1992, para.1.8, p.12).

[50] See Richard Waters, Michael Cassell and Andrew Jack, 'Reservations underlie welcome for Cadbury', *Financial Times*, 2nd December 1992, p.12.

[51] 'City Comment: Cadbury's confection of wooly thinking', *The Daily Telegraph*, 2nd December 1992.

[52] Andrew Jack, 'Report sets out an ambitious remit for self-regulation', *Financial Times*, 2nd December 1992, p.12.

[53] See Lisa Buckingham, *The Guardian*, 2nd December 1992, p.12, op.cit.

[54] See 'Benevolent dictatorships rule, OK', *Director*, August 1993, Vol.47, Issue 1, p.13; see also the negative comments of the CEO of Allied Textile Cos in 'Dealing with reality: A lesson for the City', *Accountancy*, March 1993, Vol.111, Issue 1195, p.22-23. For a critique of the elevation of the role of the non-executive director see 'A blatant slur on executive directors' integrity', *Accountancy*, April 1993, Vol.111, Issue 1196, p.81-82. For other criticisms that the report had not gone far enough see 'Good Corporate Governance needs a helping hand', *Accountancy*, January 1993, Vol.111, Issue 1193, pp.58-59.

[55] See Cadbury Report (1992, para.4.10-17, p.22-4) and Owen Green, 'Personal View: Why Cadbury leaves a bitter taste', *Financial Times*, 9th June 1992, p.19.

[56] This was a particular worry for the smaller companies (see 'An Unfairly Costly Code', *Management Today*, August 1993, p.61) and Andrew Jack, 'Cadbury may add to audit fees', *Financial Times*, 3rd December 1992, p.9.

[57] See 'Soft-centred/Cadbury on corporate governance', *The Economist*, 5th December 1992.

[58] Lisa Buckingham, *The Guardian*, 2nd December 1992, p.12, op.cit.

[59] For a report on a survey of executives showing support for statutory backing for some of the reforms see 'Statutory support for the Cadbury code?', *Management Accounting*, July/August1992, Vol.71, Issue 7, p.4.

[60] Mitchell, J.A. (1993), 'Poisoned Chocolate? Corporate Governance and the Cadbury Report', *Managerial Auditing Journal,* Vol.8, No.3, pp.31-34.

[61] See Lisa Buckingham, 'Coded message many have decided to ignore: Survey finds only eight of the top 100 companies meet key criterion for boardroom scrutiny of appointments', *The Guardian*, 1st December 1992, p.14.

[62] George Sivell, 'Big firms beat Cadbury deadline', *The Times*, 1 July 1993. Cadbury was active in his encouragement for them to do so (see for example 'Cadbury warns of regulatory threat, *Management Accounting*, June 1993, Vol.71, Issue 6, p.3).

[63] Lucy Kellaway, ‘Companies act to split top roles, report shows’, *Financial Times*, 14th July 1993, p.7.

[64] Rutteman Working Group (1994).

[65] Committee on the Financial Aspects of Corporate Governance (1995).

[66] A special committee was subsequently formed to look into this.

[67] Andrew Piper and Rowan Jones, ‘Auditors’ reviews of Cadbury compliance statements’, *Management Accounting*, March 1995, Vol.73, Issue 3, p.29; and Rupert Morris, ‘Cracking the Cadbury Code’, *Management Today*, April 1995, p.48.

[68] For example Norma Cohen, ‘The Cadbury Report: Investors raise only two cheers’, *Financial Times,* 28th May 1992, p.12; ‘City Comment: The fat pay packets of corporate governance’, *The Daily Telegraph*, 30th March 1993; and Christopher Lorenz, ‘Management: Time for Cadbury to tackle high pay’, *Financial Times*, 4th June 1993, p.14.

[69] Cadbury Report (1992, para 3.12, p.18).

[70] For a discussion of the history of the Bank’s role in the corporate governance debate see ‘The Bank and Corporate Governance: Past, present and future’, *Bank of England Quarterly Bulletin*, August 1993, Vol.33, No.3, pp.388-392.

[71] The Accounting Standards Board had been attempting to move towards full disclosure of executive pay but these moves had

stalled (see Philip Ryland, 'A piece of Cadbury melts', *Investors Chronicle*, 22nd April 1994, Vol.108, Issue 1370, p.6).

72 Cadbury Report (1992, para.4.42, p.31)

73 Lisa Buckingham, 'Cadbury seeks curb on golden handshake deals', *The Guardian*, 18th February 1994, p.19; and Nick Goodway, 'Business: Bosses give the cold shoulder to Cadbury – Hefty pay rises, lucrative perks and three-years contracts are still rife',*The Observer*, 23rd October, 1994, p.5.

74 Vanessa Houlder, Andrew Hill and Andrew Jack, 'Why do you deserve to be paid so much? A look at moves to counter criticism of big bonuses by establishing a better link with performance', *Financial Times,* 21st November 1994, p.12; and Peter Rodgers, 'Pension funds want full disclosure of boardroom pay', *The Independent*, 10th December 1994, Business p.16. For academic evidence on the weak link between executive pay and executive performance see Conyon and Leech (1994).

75 Michael White, Simon Beavis and Chris Barrie, 'CBI help sought over pay excesses: Ministers split over boardroom pay', *The Guardian*, 24th December 1994, p.1; and William Lewis, 'The year of the tweaked snouts – the changing attitudes towards boardroom pay', *Financial Times*, 24th December 1994, p.8.

76 William Lewis, *Financial Times*, 24th December 1994, p.8, op.cit.

77 Eg.Conyon and Leech (1994).

[78] Roger Trapp, 'Rolling back the shadows: Roger Trapp looks at the trend to greater openness on executive perks, *The Independent*, 4th January, 1995, p.26.

[79] William Lewis, 'Shareholders flex a muscle on top pay: A look at the options as Whitehall ponders ways of restraining directors' pay', *Financial Times*, 7th December 1994, p.10.

[80] Michael White, Simon Beavis and Chris Barrie, *The Guardian*, 24th December 1994, p.1, op.cit.

[81] See Appendix 2.

[82] Greenbury Report (1995, para.8.1-8.12, pp.49-52); and William Lewis, George Parker and Geoff Dyer, 'Greenbury urges shake-up of top pay structure at utilities, *Financial Times*, 12th July 1995, p.20.

[83] Peter Rodgers, 'Pension funds hit out at Greenbury code on top pay', *The Independent*, 23rd December 1996, Business p.16.

[84] Greenbury Report (1995, para 4, pp.21-25).

[85] Greenbury Report (1995, para 4.4, pp.21-22).

[86] Lisa Buckingham, Simon Beavis and Michael White, 'Greenbury Report: 'Timid' enquiry fails to satisfy Labour – Opposition and unions accuse CBI committee of failing to find remedy for abuses in privatised utilities', *The Guardian*, 18th July 1995, p.15.

[87] Lisa Buckingham, Simon Beavis and Michael White, 'Greenbury report provokes row on corporate greed', *The Guardian*, 18th July 1995, p.1.

[88] Neil Collins, 'How jolly Greenbury giants have hurt the little people', *The Daily Telegraph*, 18th July 1995.

[89] Philip Bassett, 'Greenbury and Nolan failed, says IoD chief', *The Times*, 1 November 1995; and Michael Cassell, 'CBI chief fears policy 'reversion' by Labour', *Financial Times*, 9th November 1995, p.13.

[90] William Lewis, 'Business leaders want end to boardroom reform', *Financial Times*, 25th October, 1995, p.10.

[91] 'Leading Article: Backlash after Greenbury', *Financial Times*, 13th November 1995, p.21.

[92] Peter Rodgers, 'Economic View: The Greenbury effect – is it pushing pay higher?: Greater circulation of information is responsible for accelerating pay rises', *The Independent*, 26th April 1996, Business p.21. See also Conyon, Clarke and Peck (1998).

[93] That is not to say that a radically different governance system would not reduce executive pay. Executive pay is much lower as a multiple of average earnings in Japan than it is the UK, while UK executive pay is in turn much lower multiple of earnings than it is in US.

[94] See DTI (1999), *Secretary of State's Speech, 19 July 1999: Directors' Remuneration*.

[95] See *DTI Press Release*, P/2001/132, 'Byers to strengthen link between boardroom pay and performance', 7 March 2001.

[96] See *DTI Press Release*, P/2001/572, 'Shareholders to get annual vote on directors' pay', 23rd October 2001.

[97] Customers and unions were involved in the public protests outside the British Gas AGM in 1995. See Eric Reguly, 'Gas investors call in Cedric the pig but lose out to the City', *The Times*, 1st June 1995.

[98] Greenbury complained of 'media harassment and personal intrusion', see William Lewis, 'Remit row delays Cadbury successor', *Financial Times*, 9th November 1995, p.11.

[99] Cadbury Report (1992, para. 3.12, p.18)

[100] Norma Cohen, 'Management: A taste for Cadbury', Financial Times, 14th June 1995, p.19; for a recognition by Adrian Cadbury of crucial role of Stock Exchange support for his proposals see Norma Cohen, 'Cadbury claims high rate of compliance with code', *Financial Times*, 25th May 1995, p.12.

[101] See also Roger Cowe, 'Weinstock bows out with attack on 'erosion of trust', *Guardian*, 7th September 1996, p.26 on Lord Weinstock's retirement speech from GEC.

[102] Norma Cohen, 'Lipworth sets out agenda for Cadbury 2: Move to cut corporate code's emphasis on role of non-executive directors', *Financial Times*, 29th April 1995, p.4.

[103] William Lewis, *Financial Times*, 9th November 1995, p.11, op.cit.

[104] See Norma Cohen and William Lewis, 'Cadbury successor may change board reforms: ICI chairman to head new corporate watchdog', *Financial Times*, 23rd November 1995, p.24.

[105] Hampel Report (1998, para 2, p.5).

[106] For the members of the committee see Appendix 3.

[107] Christy Chapman, ''Cadbury II' begins work', *The Internal Auditor*, April 1996, Vol.53, Issue 2, p.9.

[108] William Lewis and David Wighton, 'Management: Labour softens on stakeholding: The opposition has opted for cultural change', *Financial Times*, 26th June 1996, p.19.

[109] William Lewis and David Wighton, *Financial Times*, 26th June 1996, p.19, op.cit.

[110] Lindsay Percival-Straunik, 'The Hampel Committee: Opportunity Knocked', *Director*, October 1997, Vol.51, Issue 3, pp.46-51.

[111] See 'Comment: Sir Ronald looks for reform not revolution', *The Independent*, 9th December 1995, Business p.24.

[112] 'Respondents to Hampel Favour Freedom', *Accountancy*, February 1997, Vol.119, Issue 1242, p.10.

[113] Jason Nisse, 'Hampel Committee extends deadline', *The Times*, 3rd January 1997.

[114] Roger Cowe, 'Finance: Board reform hopes dashed: The Hampel Report', *The Guardian*, 6th August 1997, p.18.

[115] Neil Cowan, 'Hampel falls short', *The Internal Auditor*, December 1997, Vol.54, Issue 6, p.96; Lindsay Percival-Straunik, 'The Hampel Report: Clear enough?', *Director*, September 1997, Vol.51, Issue 2, p.22, suggests that not enough may have been done to avert legal intervention. Tricker (1998) is very critical of the non-inclusive nature of the discussions that surrounded the Hampel Report.

[116] William Lewis, 'Hampel 'omissions' attacked: Institutions criticise 'hole at heart' of corporate governance report', *Financial Times*, 11th August 1997, p.1.

[117] 'City: IoD seeks guide for incentives', *The Daily Telegraph*, 22nd September 1997.

[118] 'Beefed-up Hampel on the cards', *People Management*, 20th November 1997, Vol.3, Issue 23, p.19 and Celia Weston, 'CBI conference: Beckett hints at beefing up corporate governance', *The Guardian*, 12th November 1997, p.23.

[119] Antony Barnett, 'Business: Hampel report snubs pleas for tougher rules', *The Observer*, 21st December 1997, p.1.

[120] Jane Martinson, 'Hampel set to create corporate 'supercode'', *Financial Times*, 22nd October 1997, p.12.

[121] Hampel Report (1998, para 4.12, p.36).

[122] Alasdair Murray, 'Hampel report prompts Beckett review', *The Times*, 29th January 1998.

[123] Jane Martinson, 'The Hampel Report: Plea to give self-regulation 'time to work'', *Financial Times*, 29th January 1998, p.11.

[124] Nigel Cope, 'Business: Supercode is 'weak, bland and useless', *The Independent*, 25th June 1998, Business p.19. Parkinson and Kelly (1999) suggest that the flaw in the UK approach to corporate governance is that it relies on shareholder pressure for enforcement and that this is very weak. The Hampel Report continued the tradition of relying on this mechanism.

[125] See Stock et al. (1999).

[126] Nick Goodway, 'Survey shows UK governance still leads world', *London Financial News*, 29th June 1998.

[127] Jim Kelly, 'Supercode would have made Maxwell a saint: Corporate Governance magazine makes 1991 comparison', *Financial Times*, 2nd May 1998, p.8.

[128] David Band and Allan Blake, 'Adaptability is the secret of success: To survive in the long term, companies must learn from the wider implications of the Hampel report', *The Independent*, 22nd April, 1998.

[129] Turnbull Report (1999, para.20, p.7).

[130] Hampel Report (1998, para.6.14, p.54).

[131] Jim Kelly, 'Listed groups face tougher rules on managing risks: Turnbull requirements tightened up since draft stage', *Financial Times*, 27th September 1999, p.28. For membership of the committee see Appendix 4.

[132] Turnbull Report (1999, p.1).

[133] Jim Kelly, ‘Corporate ‘supercode’ will urge tighter control of internal risks’, *Financial Times*, 19th April 1999, p.22.

[134] Susannah Kingsmill, ‘Turnbull and transparency: companies are being forced into a radical reassessment of their internal controls’, *London Financial News*, 4th October 1999.

[135] Roger Cowe, ‘Risk Evaluation: Making Maxwells a thing of the past: The Turnbull report on companies’ internal controls will oblige them to address issues from health to the environment’, *The Guardian*, 23rd October 1999, p.30.

[136] See Turnbull Report (1999, p.15)

[137] See speech by Margaret Beckett on whether the government can encourage the private sector in the area of corporate governance (Margaret Beckett, *Speech at PIRC Annual Conference*, March 1998, www.dti.gov.uk/Minspeech/pircfin.htm).

[138] DTI (1998, para.3.2)

[139] DTI (1998, para.3.7)

[140] DTI (1998, para.3.7)

[141] DTI (1998, para.5.2)

[142] See Appendix 5.

[143] DTI (1999, 2000a, 2000b and 2001) available from www.dti.gov.uk/cld/

[144] DTI (2001, p.xvii).

[145] Wilson (2000) notes the change in direction in the DTI initiated by Beckett's successor Peter Mandelson. His successor Stephen Byers suggested a change in focus from corporates to an encouragement of the engagement of shareholders in activism (Stephen Byers, *Speech at PIRC Annual Conference*, March, 1999, www.dti.gov.uk/Minspeech/byers250399.htm). He also suggested that he was still monitoring the performance of the corporate governance system (Stephen Byers, *Directors' Remuneration*, July 1999, www.dti.gov.uk/Minspeech/byers190799.htm). However in 2000 Byers moved the emphasis away from stakeholding, suggesting the most of corporate governance would be delegated to the Financial Reporting Council (Stephen Byers, *Speech at TUC/IPPR Seminar on Corporate Governance*, June 2000, www.dti.gov.uk/Minspeech/byers070600.htm).

[146] DTI (1996). A second Myners Report appeared in 2001 (HM Treasury, 2001).

[147] Cadbury (2000).

[148] The Bank sold Pro-NED in early 1994. See Norma Cohen, 'Pro Ned sold off to European headhunting company, *Financial Times*, 19th January 1994, p.20.

[149] Whittington (1993).

[150] Rupert Morris, *Management Today*, April 1995, pp.48, op.cit.

TABLE 1: Influences on the key stages in the development of the Cadbury Report

		Initial Interest	Formation of Committee	Terms of Reference	Deliberation	Compilation	Presentation	Debate	Implementation
Business	*Corporates*	L	L	L	L	M	H	H	H
	Non-financial stakeholders	-	-	-	-	-	-	-	-
	Financial stakeholders	H	M	-	-M	-M	-	-	-
	Professionals	H	H	H	H	H	H	H	H
Authorities	*Government*	H	L	-	-	-	-	-	-
	Regulators	H	M	M	M	M	L	L	H
Public Opinion	*Media*	H	L	L	-	M	H	H	-
	NGOs	-	-	-	-	-	-	-	-
	Popular feeling	H	-	-	-	-	-	-	-
Exogenous Factors	*Events*	H	H	H	-	-	-	-	-

H=High, M=Medium, L=Low, -=None discernible

TABLE 2: Influences on the key stages in the development of the Greenbury Report

		Initial Interest	Formation of Committee	Terms of Reference	Deliberation	Compilation	Presentation	Debate	Implementation
Business	*Corporates*	L	H	H	H	H	H	H	H
	Non-financial stakeholders	H	L	L	L	L	L	L	L
	Financial stakeholders	L	H	H	H	H	H	H	H
	Professionals	-	-	-	-	-	-	-	-
Authorities	*Government*	H	H	H	H	H	H	H	H
	Regulators	-	-	-	-	-	-	-	M
Public Opinion	*Media*	H	-	-	H	H	H	H	H
	NGOs	M	-	-	-	-	-	-	-
	Popular feeling	H	-	-	H	H	H	H	H
Exogenous Factors	*Events*	H	-	-	-	-	-	-	-

H=High, M=Medium, L=Low, -=None discernible

TABLE 3: Influences on the key stages in the development of the Hampel Report

		Initial Interest	Formation of Committee	Terms of Reference	Deliberation	Compilation	Presentation	Debate	Implementation
Business	*Corporates*	L	M	M	M	M	M	L	L
	Non-financial stakeholders	L	L	L	L	L	L	L	L
	Financial stakeholders	M	H	M	M	M	M	L	L
	Professionals	H	H	H	H	H	H	H	H
Authorities	*Government*	L	-	M	L	L	L	L	L
	Regulators	H	H	H	-	-	-	-	H
Public Opinion	*Media*	L	L	L	L	L	L	L	L
	NGOs	L	L	L	L	L	L	L	L
	Popular feeling	L	-	-	-	-	-	-	-
Exogenous Factors	*Events*	L	-	-	-	-	-	-	-

H=High, M=Medium, L=Low, -=None discernible

TABLE 4: Influences on the key stages in the development of the Turnbull Report

		Initial Interest	Formation of Committee	Terms of Reference	Deliberation	Compilation	Presentation	Debate	Implementation
Business	*Corporates*	L	L	-	-	-	-	M	H
	Non-financial stakeholders	-	-	-	-	-	-	-	-
	Financial stakeholders	L	L	-	-	-	-	-	-
	Professionals	H	H	H	H	H	H	H	H
Authorities	*Government*	-	-	-	-	-	-	-	-
	Regulators	H	H	H	-	-	-	H	H
Public Opinion	*Media*	-	-	-	-	-	M	-	-
	NGOs	-	-	-	-	-	-	-	-
	Popular feeling	-	-	-	-	-	-	-	-
Exogenous Factors	*Events*	M	-	-	-	-	-	-	-

H=High, M=Medium, L=Low, -=None discernible

TABLE 5: Influences on the key stages in the development of the Company Law Review

		Initial Interest	Formation of Committee	Terms of Reference	Deliberation	Compilation	Presentation	Debate	Implementation
Business	*Corporates*	L	L	L	L	L	-	-	-
	Non-financial stakeholders	H	H	H	H	H	-	-	-
	Financial stakeholders	M	M	M	M	M	-	-	-
	Professionals	H	H	H	H	H	-	-	-
Authorities	*Government*	H	H	M	L	L	-	-	-
	Regulators	-	-	-	-	-	-	-	-
Public Opinion	*Media*	L	L	L	-	-	-	-	-
	NGOs	M	M	M	M	M	-	-	-
	Popular feeling	L	L	L	-	-	-	-	-
Exogenous Factors	*Events*	-	-	-	-	-	-	-	-

H=High, M=Medium, L=Low, -=None discernible

TABLE 6: Summary Assessment of Influences on the different Governance Debates in the UK

		Influences				Overall Assessment	
	Nature of Issues	*Business Community*	*Authorities*	*Public Opinion*	*Exogenous Factors*	*Quality of Process*	*Impact of Process on Outcome*
Cadbury	Specific – related to high profile failure	Varied	High	Initially High	High – economy unfavourable	Very high	Very high - visionary
Greenbury	Specific – related to cases	High	High	High	High – Cedric Brown's pay rise	Very poor	High – inconclusive
Hampel	General – revisiting Cadbury	Varied	Low	Low	Low – economy favourable	Initially medium, later improved	High – low key outcome
Turnbull	Technical – of professional concern	Varied	Low	Low	Low	Focussed and efficient	Very High – professional
Company Law Review	General – motivated political views in opposition	Varied	High at official level, declining at political level	Varied – linked to Greenbury initially	Low	Consultation comprehensive	Very high – unlikely to be radical

References

Boyd, C. (1996) 'Ethics and Corporate Governance: The Issues Raised by the Cadbury Report in the United Kingdom', *Journal of Business Ethics*, 15, (2), pp.167-208.

Cadbury, A. (1990) *The Company Director*, London: Director Books.

Cadbury, A. (2000) 'The Corporate Governance Agenda', *Corporate Governance*, Vol.8 (1), pp.7-15.

Charkham, J.P. (1994) *Keeping Good Company: A Study of Corporate Governance in Five Countries*, Oxford: Oxford University Press.

Conyon, M., Clarke, R. and Peck, S. (1998) 'Corporate Governance and Directors' Remuneration: Views from the Top', *Business Strategy Review*, Vol. 9, No. 4, pp21-30, 1998.

Cook, J. and Deakin, S. (1999) 'Chapter 10: Empirical Evidence on Corporate Control' in ESRC Centre for Business Research, *Literature Survey on Factual, Empirical and Legal Issues*, Cambridge: ESRC Centre for Business Research at www.dti.gov.uk/cld/esrc10pdf

Committee on Corporate Governance (1998) *Final Report* [Hampel Report], London: Gee Publishing.

Committee on the Financial Aspects of Corporate Governance (1992) *Report with Code of Best Practice,* [Cadbury Report], London: Gee Publishing.

Committee on the Financial Aspects of Corporate Governance (1992) *Draft Report,* [Cadbury Draft Report], London: Gee Publishing.

Committee on the Financial Aspects of Corporate Governance (1995) *Compliance with the Code of Best Practice,* London: Gee Publishing.

Conyon, M. and Leech, D.J. (1994) ‘Top Pay, Company Performance and Corporate Governance’, *Oxford Bulletin of Economics and Statistics*, Vol.56, (3), pp.229-247.

DTI (1996) *Developing a Winning Partnership* [Myners Report], London: DTI.

DTI (1998) *Modern Company Law for a Competitive Economy*, London: DTI at www.dti.gov.uk/cld/reviews/condocs.htm

DTI (1999) *Modern Company Law for a Competitive Economy: The Strategic Framework*, London: DTI at www.dti.gov.uk/cld/reviews/condocs.htm

DTI (2000a) *Modern Company Law for a Competitive Economy: Developing the Framework*, London: DTI at www.dti.gov.uk/cld/reviews/condocs.htm

DTI (2000b) *Modern Company Law for a Competitive Economy: Completing the Structure*, London: DTI at www.dti.gov.uk/cld/reviews/condocs.htm

DTI (2001) *Modern Company Law for a Competitive Economy: Final Report*, London: DTI at www.dti.gov.uk/cld/final_report/index.htm

Finch, V. (1992) ‘Board Performance and Cadbury on Corporate Governance’, *Journal of Business Law*, pp.581-595.

Franks, J. and Mayer, C. (1990) 'Capital Markets and Corporate Control: A Study of France, Germany and the UK', *Economic Policy*, April, pp.189-231.

HM Treasury (2001) *Institutional Investment in the United Kingdom: A Review* [Myners Report, 2001], London: HM Treasury.

Hutton, W. (1995) *The State We're In*, London: Vintage.

ICEAW (1999) *Internal Control – Guidance for Directors on the Combined Code* [Turnbull Report], London: Institute of Chartered Accountants in England and Wales.

Jones, I.W. and Pollitt, M.G. (1996) 'Economics, Ethics and Integrity in Business' *Journal of General Management* Vol.21, No.3, pp.30-47.

Jones, I.W. and Pollitt, M.G. (eds.) (1998) *The Role of Business Ethics in Economic Performance,* Basingstoke: Macmillan/St Martin's Press.

Kay, J. and Silbertson, A. (1995) 'Corporate Governance', *National Institute Economic Review*, Vol.153, pp.84-99.

Monks, R.A.G., (2000) 'Modern Company Law for a Competitive Economy: The Strategic Framework', *Corporate Governance*, Vol.8, No.1, pp.16-24.

OECD (1991) *OECD Economic Outlook July 1991*, Paris: OECD.

Parkinson, J. (2000) 'Evolution and Policy in Company Law: The Non-Executive Director', in J.Parkinson, A.Gamble and G.Kelly (eds), *The Political Economy of the Company*, Oxford: Hart Publishing.

Parkinson, J. and Kelly, G. (1999) 'The Combined Code on Corporate Governance', *Political Quarterly*, Vol.70, pp.101-107.

Rutteman Working Group (1994) *Internal Control and Financial Reporting: Guidance for directors of listed companies registered in the UK* [Rutteman Report], London: Rutteman Working Group.

Study Group on Directors' Remuneration (1995) *Directors' Remuneration: Report of a Study Group Chaired by Sir Richard Greenbury*, [Greenbury Report], London: Gee Publishing.

Stock, M., Copnell, T. and Wicks, C. (1999) *The Combined Code – A Practical Guide*, London: Gee Publishing.

Tricker, B. (1998) 'Editorial: Platitudes Parading as Paradigms', *Corporate Governance*, Vol.6, No.1, pp.2-4.

Turnbull, S. (1997) 'Corporate Governance: Its Scope, Concerns and Theories', *Corporate Governance*, Vol.5, (4), pp.180-205.

Whittington, G. (1993) 'Corporate Governance and the Regulation of Financial Reporting', *Accounting and Business Research*, Vol.23 (91), pp.311.

Wilson, G. (2000) 'Business, State and Community: Responsible Risk Takers. New Labour and the Governance of Corporate Business', *Journal of Law and Society*, Vol.27 (1), pp.151-77.

APPENDICES

APPENDIX 1: Members of the Cadbury Committee

Name	**Occupation**
Sir Adrian Cadbury	
Ian Butler	Council member, CBI and former chairman CBI companies committee
Jim Butler	Senior Partner KPMG Peat Marwick
Jonathan Charkham	Advisor to the Governor of Bank of England
Hugh Collum	Chairman Hundred Group of Finance Directors
Sir Ron Dearing	Chairman Financial Reporting Council
Andrew Likierman	Professor of Accounting and Financial Control London Business School
Nigel Macdonald	Vice President Institute of Chartered Accountants of Scotland
Mike Sandland	Chairman Institutional Shareholders Committee
Mark Sheldon	President Law Society
Sir Andrew Hugh Smith	Chairman London Stock Exchange
Sir Dermot de Trafford, Bt	Chairman Institute of Directors
Observers	
Mrs Sarah Brown (until october 1991)	
Mr Arthur Russell (from November 1991)	Head of Companies Division DTI
Secretary	
Nigel Peace	secondment from DTI
Adviser	
Sir Christopher Hogg	Chairman Reuters Holdings PLC

Source: Cadbury Report (1992, p.61-62).

APPENDIX 2: Members of the Greenbury Committee

Name	Occupation
Sir Richard Greenbury	Chairman Marks and Spencer PLC
Sir Michael Angus	Chairman Whitbread Plc and the Boots Company PLC
Sir David Chapman Bt	Wise Speke Limited (stockbrokers) Newcastle
Sir Denys Henderson	Chairman Rank Organisation Plc
Sir David Lees	Chairman GKN plc
Mr Geoff Lindey	Head of UK Institutional Investment JP Morgan Investment Management Inc
Mr Tim Melville Ross	Director General Institute of Directors
Mr George Metcalfe	Chairman and CEO UMECO plc
Sir David Simon	Chairman The British Petroleum Company Plc
Sir Ian Vallance	Chairman British Telecommunications Plc
Sir Robert Walther	Group Chief Executive Clerical Medical Investment Group
Professional Advisers	
Mr Andrew Edwards	
Mr John Grieves	Freshfields
Mr Peter Jeffcote	Freshfields
Mr Angus Maitland	Maitland Consultancy
Mr John Carney	Towers Perrin
Secretary	
Mr Matt Lewis	KPMG Secretary to the Group

Source: Greenbury Report (1995, p.5).

APPENDIX 3: Members of the Hampel Committee

Name	**Occupation**
Sir Ronald Hampel	Chairman ICI
Michael Coppel	Charman Airsprung Furniture Group
Michael Hartnall	Finance Director Rexam Plc
Giles Henderson CBE	Senior Partner, Slaughter and May
Sir Nigel Mobbs	Executive Chairman Slough Estates Plc
Tony Richards TD	Director Henderson Costhwaite Ltd
Tom Ross	Principle and Actuary Aon Consulting Limited
Peter Smith	Chairman Coopers and Lybrand
David Thomas	Director and General Manager (investments) The Equitable Life Assurance Society
Sir Clive Thompson	Chief Executive Rentokil Initial Plc
Lord Simon	Chairman of BP Plc (resigned 7 May 1997)
Christopher Haskins	Chairman of Northern Foods Plc (resigned August 1997)
Secretary	
John Healey	

Source: Hampel Report (1998, p.65).

APPENDIX 4: Members of the Turnbull Committee

Name	Occupation
Nigel Turnbull (chairman)	Executive Director, Rank Group Plc
Roger Davis (Deputy Chairman)	Head of Professional Affairs, Pricewaterhouse Coopers
Douglas Flint	Group Finance Director HSBC Holdings Plc
Huw Jones	Director of Corporate Finance, Prudential Portfolio Mangers
David Lindsell	Partner, Ernst and Young
Tim Rowbury	Internal Audit Consultant
Jonathan Southern	Director of Accounting and Reporting, Diageo Plc
David Wilson	Compnay Secretary and General Counsel, Debenhams Plc
Staff	
Anthony Carey	Project Director, Institute of Chartered Accountant in England and Wales, (ICAEW)
Jonathan Hunt	Project Manger ICAEW

Source: Turnbull Report (1999, p.15).

APPENDIX 5: Members of Company Law Review Steering Group

Name	Occupation
Richard Rogers (Chairman)	Director, Company Law and Investigations, Department of Trade and Industry
The Right Hon Lady Justice Mary Arden DBE	
Robert Bertram	Formerly Partner, Shepherd and Wedderburn WS
Sir Bryan Carsberg	Former Secretary-General, International Accounting Standards Committee
Paul Davies	Cassel Professor of Commercial Law, London School of Economics and Political Science
Sir Stuart Hampson	Chairman, John Lewis Partnership plc
John Kay	Director, London Economics [until March 2000]
John Parkinson	Professor of Law, University of Bristol
Colin Perry	Chairman, LTE Scientific Ltd
John Plender	broadcaster and journalist
Rosemary Radcliffe CBE	Chief Economist, PricewaterhouseCoopers
Jonathan Rickford CBE	Company Law Review Project Director
Bryan Sanderson CBE	Chairman, Learning and Skills Council; Chairman, BUPA; Former Group Managing Director, BP Amoco plc
Martin Scicluna	Chairman, Deloitte & Touche
Richard Sykes QC	Chairman, Financial Reporting Review Panel

Source: http://www.dti.gov.uk/cld/members.htm