The Missing Link

Lessons from the ‘Shareholder Spring’
About FairPensions

FairPensions is a registered charity established to promote responsible investment practices by pension providers and fund managers. FairPensions champions greater transparency and accountability to the millions of people whose long-term savings are managed by institutional investors and other professional agents. FairPensions believes that responsible investment helps to safeguard investments as well as securing environmental and social benefits.

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Executive summary

Executive pay has been a defining political issue of 2012. The political response has focussed largely on improving shareholder oversight, and in particular on giving shareholders better tools to hold companies to account. This year’s wave of shareholder rebellions over executive pay was widely seen as a vindication of this approach; proof that investors were ‘waking up’ to their responsibilities. But was it all that it seemed?

Various studies have used voting data to suggest that there may have been less to the so-called ‘Shareholder Spring’ than met the eye. This report seeks to address the wider question of what it tells us about institutional investors’ attitudes to engagement, and their implications for policy. Drawing on a wide range of sources, including responses to government consultations and publicly disclosed voting information, we conclude that there is little evidence of a sea-change in investor attitudes. Efforts to make companies more accountable to their shareholders must now be supplemented by efforts to make institutional investors themselves more accountable to the millions of people whose savings they manage.

Voting trends
There was no significant trend towards higher levels of dissent on remuneration across the board: analysis by PIRC of 300 AGM results found that the average level of dissent was 7.64%, compared to 6.4% in 2011. Of course, these numbers give only a partial picture: they do not reflect the wider impact of a small number of significant defeats, both on other FTSE companies and, arguably, on future pay practice. But they do call into question the notion of a sea-change in shareholders’ voting behaviour.

Moreover, our analysis of key individual votes found little consistency in the factors driving rebellions at specific companies – either in terms of poor remuneration practice or in terms of performance. For instance, WPP suffered a defeat in part because of CEO Martin Sorrell’s high potential bonus of up to 500% of base salary; but only 11.8% of shareholders voted against BP’s remuneration report, which included a potential maximum award for CEO Bob Dudley of 923% of base salary.

In light of this evidence, one must ask whether this year’s handful of rebellions was really the manifestation of a newly robust and coherent stewardship approach – or whether they owed more to the intense political and media spotlight on the issue of pay. Will change be sustained in future years, when the spotlight has moved on?

Institutional investor attitudes to engagement
To answer this question, we analysed institutional investors’ responses to government consultations on executive pay, seeking evidence of their appetite for assuming greater ownership responsibilities. Our findings call into question the assumption that improving shareholder oversight is primarily a matter of giving shareholders the tools to do the job.
Institutional investor support for enhancing shareholder rights was initially lukewarm at best, with a clear majority opposed to the introduction of a binding vote on executive pay. Interestingly, their reasons fell into two main – somewhat contradictory – camps:

- Some felt that engagement was already effective in aligning remuneration with shareholder interests, and that new powers were therefore unnecessary. This included all three institutional investor trade bodies.

- Others argued that the problem was not a lack of powers but the unwillingness of many institutional investors to use the powers they already had. This included (but was not limited to) many of the most committed ‘stewardship’ investors.

It is possible to view the final package as a compromise between policymakers keen to empower shareholders, and institutional investors reluctant to assume these powers.

By June 2012, the government had secured support for a binding vote on pay from the investor community. Responses to its second consultation showed a significant rise in support for the measure - but several respondents stressed that they did not want to ‘micro-manage’ companies, with some giving this as a reason for rejecting an annual binding vote. Others expressed an unwillingness to devote the additional resources that would be needed to meaningfully scrutinise companies’ remuneration reports. The government’s final proposal, for a three-yearly binding vote on future pay policy, appeared to reflect these concerns.

The point of this analysis is not to criticise the detail of the government’s reforms, but to highlight the dynamics that appear to have produced them. It is possible to view the final package as a compromise between policymakers keen to empower shareholders, and institutional investors reluctant to assume these powers. This reluctance suggests a deeper problem to which policymakers and investors must now turn their attention.

**Transparency & accountability**

The asset managers exercising the majority of voting rights are not the ultimate owners of companies, but are agents of underlying investors. Often, they are agents of institutions such as pension funds who themselves own shares on behalf of thousands of individual savers. The logical extension of the government’s current approach of making companies more accountable to their shareholders is to focus on making these intermediaries more accountable to the individuals who actually provide the capital.

FairPensions’ ‘Your Say on Pay’ initiative featured an online tool enabling savers to send a message to their pension or stocks-and-shares ISA provider, asking them to vote against pay packages featuring certain ‘red flags’ and to let them know how votes had been cast on their behalf. We asked savers to forward us any responses they received and analysed the (anonymised) results. We found a disappointing lack of transparency and communication:

- Of 246 providers who received at least one email, we were only sent responses from 26.

- Eight responses made no reference whatsoever to remuneration, and a further seven acknowledged that this was the issue they had been contacted about but gave no further relevant information. This leaves only 11 substantive responses, which varied considerably in quality and detail: for example, only three referred explicitly to the ‘red flags’ listed in the email.
Pension funds often pointed to the fact that day-to-day voting activity was delegated to their asset managers as justification for not giving a substantive response. This represents a broken link in the chain of accountability. We would expect funds to explain how they discharge their responsibility to oversee managers, and/or to forward savers’ queries to asset managers themselves for a more substantive response.

Only 11 providers confirmed that they would disclose their voting records, and only five gave direct links to webpages where savers could find these disclosures. None offered to follow up with the saver to let them know how they had voted: even the best responses relied on savers to proactively trawl the provider’s public voting disclosures to find the relevant information.

Our analysis of available voting information for 20 of the largest UK asset managers suggests that such information may be difficult to find. Although most provided some voting data, this was often inaccessible or incomplete. Some only disclosed certain votes, usually votes against or abstentions. Many did not provide reasons for their votes, and of those who did, only one gave reasons for votes in favour of management as well as against. This is a major gap: savers would arguably be far more interested in their fund’s rationale had they voted in favour of a controversial remuneration report than if they had voted against. On the whole, our analysis found a lack of meaningful information on specific votes which is disguised by aggregate figures on levels of voting disclosure.

Conclusions
We conclude that, although the handful of remuneration defeats seen in 2012 clearly had a significant impact, it did not represent a sea-change in investor attitudes either to stewardship generally or to poor remuneration practice in particular. The stewardship debate now needs to shift its focus, from strengthening the relationship between companies and shareholders to strengthening the relationship between institutional investors and the ultimate providers of capital. Transparency and accountability in this relationship is currently weak. Investors should seek to improve the way they communicate with savers, particularly in response to specific queries. Government, just as it has sought to give shareholders the tools to hold companies to account, must now ensure that savers have the tools to hold their investment agents to account.

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Introduction

‘Responsible capitalism’ has been one of the defining political themes of 2012. In January, David Cameron declared his commitment to building “a socially responsible and genuinely popular capitalism”.¹ This followed major party conference speeches on the subject from Vince Cable and Ed Miliband. Although the language has varied – ‘crony capitalism’ on the right, ‘producers versus predators’ on the left – the debate has been characterised by a remarkable degree of cross-party consensus. Across the spectrum, excessive executive pay and ‘rewards for failure’ have been highlighted as a symptom of irresponsible capitalism. And across the spectrum, improved shareholder oversight has been a large part of the prescription. The government’s response has focussed on giving shareholders the tools to hold companies to account – better information and binding votes – and this approach has been broadly endorsed by the opposition.

Institutional investors’ willingness to make use of these powers is far from a given. In the wake of the 2008 financial crisis, questions were asked about why UK institutional investors had not acted to rein in banks’ risky lending practices. The Walker Review, commissioned in response to the crisis, began examining corporate governance in the banking industry and quickly widened its remit to include other financial institutions such as asset management firms. As a result of the review, the UK Stewardship Code was launched in 2010 on a comply-or-explain basis. It was intended to end a culture of ‘absentee landlordism’ and to enhance the quality of engagement between investors and investee companies.

The Stewardship Code has seen enthusiastic uptake in the UK with virtually the entire asset management industry declaring its commitment to it. Yet there are concerns that this has often been more of a tick-box exercise than a true shift in culture and resource: in the recent FT/ICSA Business Bellwether survey, 79% of responding FTSE 350 companies reported no increase in engagement since the introduction of the Code, with the remaining 21% reporting only a slight increase.² Similarly, the FRC’s first review of the Code found that most companies “[had] noticed relatively little change in approach to engagement”.³

Was the ‘Shareholder Spring’ as significant as it seemed, and if it was, can we have confidence that this shift will be sustained?

The 2012 AGM season was hailed by many as a watershed in relation to such concerns. A series of high-profile shareholder rebellions – dubbed the ‘Shareholder Spring’ – has been held up by the media and by politicians as evidence that institutional investors are taking their ownership responsibilities more seriously. But has there really been a sea-change in shareholder attitudes? Was the ‘Shareholder Spring’ as significant as it seemed, and if it was, can we have confidence that this shift will be sustained? Answering these questions is critical to understanding how likely it is that the government’s strategy of empowering shareholders will work. It also offers important insights into the further steps policymakers and investors might need to take to build a more responsible capitalism.
FairPensions has long believed that responsible stewardship of listed companies is in the interests of those whose capital is ultimately invested in them, and that greater accountability to these ‘ultimate owners’ could be an important catalyst for better stewardship. In our experience, notwithstanding positive developments such as the Stewardship Code, there is still a long way to go to achieve a true culture of responsible and accountable ownership among institutional investors. The events of 2012 have offered a fascinating litmus test for the validity of these ideas. As the dust settles, this report draws on a range of sources to assess the character of the so-called ‘Shareholder Spring’ and the lessons it holds for the debate about shareholder oversight.

- Chapter 1 analyses voting information to assess whether there was a substantial shift in investor attitudes to remuneration and what factors drove dissent at particular companies.
- Chapter 2 uses institutional investors’ responses to the government’s proposals for a binding vote on pay to gauge shareholders’ attitudes to engagement and their appetite for being given new powers.
- Chapter 3 draws on the experience of FairPensions’ own ‘Your Say on Pay’ initiative, which enabled savers to email their pension or ISA provider asking about their voting intentions on executive pay. Using an anonymised sample of provider responses, it assesses the accountability of institutional investors to underlying savers.
The use of the epithet ‘Shareholder Spring’ to describe 2012’s AGM season became widespread after a handful of early remuneration report defeats. Leaving aside the question of whether any corporate governance activism can really be compared to the Arab Spring, there is a more fundamental question to be asked: whether the Shareholder Spring of popular mythology actually took place at all.

Did 2012 see an unprecedented wave of shareholder dissent?
Clearly, there was a very real wave of rebellion for a select few companies. Six FTSE companies had their remuneration reports defeated. (The number would have risen to seven had abstentions been counted, since this made the difference between approval and defeat for bookmakers William Hill.) This included two in the FTSE 100, compared to zero in 2011.4 Several large swing votes were seen, including a rise in dissent of over 50% on 2011 levels at Pendragon, Cairn Energy, Centamin and Aviva. Media scrutiny of company AGMs also reached new levels of intensity, including live blogging by international news sites of the most controversial meetings.

This climate affected companies beyond those who suffered outright defeats. Several companies did their best to ward off investor ire, with some altering controversial remuneration plans in advance of AGMs. Tesco CEO Phil Clarke turned down his bonus a month before the AGM after a profits fall.5 Others were forced to make conciliatory moves at the eleventh hour; so came the resignations of Sly Bailey (Trinity Mirror) and David Brennan (AstraZeneca) shortly before their respective AGMs. Andrew Moss at Aviva chose not to step down and was forced out after a protest vote of nearly 59% at the AGM in May.

But aggregate voting figures tell a different story: it now seems clear that isolated rebellions did not translate into higher levels of dissent across the board. Analysis by PIRC of a sample of 300 AGM results for FTSE All-Share companies in the first two quarters of 2012 shows that the average vote against remuneration reports was 7.64%, compared to 6.4% in 2011.7 PIRC also directly compared 234 companies’ remuneration results from 2011 and 2012, and found that whilst the average levels of abstentions dropped by 0.5% - suggesting that some investors are forgoing abstentions in favour of outright votes against - the average opposition vote only rose by 1.5%.8 The notion that 2012 saw a significant and widespread jump in shareholder dissent on pay does appear to be a myth.

Of course, a small overall rise in levels of dissent could mean one of two things. It could mean that the small number of companies who suffered shareholder revolts were the only or principle offenders in relation to excessive pay: they were outliers, with the rest of the FTSE escaping relatively unscathed simply because there was nothing to rebel against. Or it could mean that there has not, after all, been a transformation in the nature of shareholder oversight. To assess the nature of the Shareholder Spring, then, we need to look not just at the level of dissent but at whether voting behaviour was consistent between companies.
Who was targeted – and who was not?
FairPensions’ Your Say on Pay initiative focused on four ‘red flags’ which should trigger a vote against a company’s remuneration report. These triggers, developed through consultation with investors and remuneration experts, were:
• single performance criteria in executives’ incentive plans;
• transaction-related bonuses or ‘golden hellos’;
• moving the performance goal-posts on executives’ incentive plans; and
• variable pay of more than 200% of executives’ base salaries.

We have analysed shareholder votes at ten companies whose remuneration reports breached one or more of these triggers, or provoked shareholder dissent for other reasons (for full details, see Appendix). Some of these companies’ AGMs were controversial; some were not. As well as comparing the overall level of dissent, we have analysed the available voting information for 20 of the UK’s largest asset managers to assess the consistency of voting behaviour.

This chart highlights some inconsistencies both within and between asset managers in their approach to acceptable remuneration practice.
Within asset managers (reading across the rows of the table), there does not always seem to be a consistent approach to bad practice from one company to the next. It is notable that only The Co-operative Asset Management - a fund well-known for its committed approach to stewardship - voted against Rolls-Royce, whose remuneration report included a ‘golden hello’. Whilst remuneration reports clearly need to be considered on a company-by-company basis, the waving through of reports with components widely considered as bad practice (see Box A below) needs to be explained. It is arguable that good performance masked poor practice, as at Rolls Royce. But performance variation does not explain the contrast between the experience of WPP and BP: if anything, this should have favoured WPP. Between asset managers (reading down the columns of the table) the picture is similarly variable. Even among companies who suffered defeats or significant rebellions, UK institutional investors’ votes were a mixed bag – for instance, four of those who disclosed supported Aviva’s remuneration report, six supported William Hill, and eight supported Prudential. There also appears to be significant variability in willingness to challenge management, with some large UK asset managers appearing reluctant to vote

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**Box A: Poor remuneration practice: Inconsistencies in shareholder reaction**

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<th><strong>Cairn Energy</strong></th>
<th><strong>Rolls Royce</strong></th>
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<td><strong>Transaction bonuses / golden hellos</strong></td>
<td>Shareholders opposed Sir Bill Gammell’s one-off award of £3.5m in shares for his role in securing the sale of a stake of the company’s Indian assets to Vedanta. After being forced to withdraw this planned share award, Cairn’s remuneration report still suffered a 67% vote against, perhaps partly because of a second one-off payment made to mark Gammell’s move from CEO to Chairman.</td>
<td>97.6% of investors voted in favour of a remuneration package that included a ‘golden hello’ of shares worth approximately £2m (at the time granted) for incoming CEO John Rishton. ‘Golden hellos’ are widely regarded as poor remuneration practice.</td>
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<td><strong>WPP</strong></td>
<td>CEO Martin Sorrell came under huge media and investor pressure over his perceived excessive pay-out, despite record profits of £1bn in 2011. Sorrell was entitled to a maximum of 500% of base salary in bonus if he met the top level of his performance targets. WPP’s remuneration report received a 59.5% vote against.</td>
<td>BP’s remuneration structure allowed CEO Bob Dudley to achieve 923% of his base salary as a bonus. BP’s remuneration report received a vote against of only 11.8%. This cannot be explained by good performance, since BP’s share price had still yet to recover to pre-Deepwater levels.</td>
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against remuneration reports even at companies which suffered large revolts. Most notably, BlackRock and M&G each voted against management at only one of the companies for which they disclosed (out of a total of seven and nine companies respectively) – significantly fewer than most other managers we analysed.

Box B: Conflicts of interest

It is particularly interesting to note that several of the companies which suffered rebellions were themselves financial services companies, some of which have internal asset management arms. In the case of Aviva, this potential conflict of interest is explicitly dealt with in Aviva Investors’ stewardship policy, which states that it will not vote shares in Aviva plc unless instructed by a client. As the table shows, Aviva did indeed refrain from voting on its own remuneration report, which suffered a high profile defeat. By contrast, M&G, the asset management arm of Prudential, states only that “potential conflicts of interest, which in practice rarely arise, are managed by always putting first the interest of the shareholding client”. M&G supported Prudential’s remuneration report, which 30.3% of investors voted against.

Overall, it is difficult to discern a clear pattern in the data analysed. It certainly does not support the narrative of UK institutional investors rising up as one to defeat unacceptable remuneration reports. The rarity of outright votes against management has often been blamed on increased dispersion of share-ownership – and, in particular, the rise of foreign ownership. But this analysis suggests that at least part of the reason may lie closer to home: the willingness of major UK institutions to challenge companies when problems arise cannot be taken for granted.

Conclusion

Levels of opposition to remuneration reports have fluctuated since the introduction of the advisory Say on Pay vote in 2003: 2005 saw four defeats, followed by just 1 in 2006. Whilst the six defeats of 2012 were a high point, they do not represent an unprecedented upsurge in shareholder activism. Moreover, the data does not suggest that 2012 saw an across-the-board rejection of pay for under-performance: indeed, it is difficult to construct a coherent narrative that explains why some companies suffered rebellions and others did not. One study that attempts to do so has suggested that in fact low share price was the common factor uniting companies who suffered defeats - even if they were performing well on other indicators of profitability. Even if true, this pattern is scarcely more encouraging: the obsession with short-term share price movements is exactly what advocates of a more long-term, responsible capitalism are seeking to move away from.

Overall, it is difficult to discern a clear pattern in the data analysed. It certainly does not support the narrative of UK institutional investors rising up as one to defeat unacceptable remuneration reports. The rarity of outright votes against management has often been blamed on increased dispersion of share-ownership – and, in particular, the rise of foreign ownership. But this analysis suggests that at least part of the reason may lie closer to home: the willingness of major UK institutions to challenge companies when problems arise cannot be taken for granted.

“there appears to be significant variability in willingness to challenge management, with some asset managers reluctant to vote against remuneration reports even at companies which suffered large revolts.”

It is also worth asking one final question about the ‘Shareholder Spring’: ‘why this year?’ The rebellions of 2012 did not stem from any obvious change in the business environment. What had changed was the considerable public scrutiny on pay in general and investors in particular. The question then becomes whether a more robust stance will be maintained in future AGM seasons when the spotlight has moved on. Answering this question requires us to examine shareholder attitudes to engagement more closely.
Chapter 2: Institutional investors’ attitudes to engagement

In a speech outlining his take on ‘moral capitalism’ on 19 January 2012, Prime Minister David Cameron said “We need to make the market work and we will do that by empowering shareholders”. On 20 June 2012, Vince Cable announced a package of reforms aimed at empowering shareholders to rein in excessive executive pay. In a speech to the Association of British Insurers in July, he stressed that “the onus is now on you, as investors, to use these powers in your own best interests and ensure the shareholder spring proves to be more than just a fleeting phenomenon.”

This section analyses institutional investors’ responses to the government’s consultations on enhanced shareholder rights, focussing in particular on their perception of their own role as owners, and of the likely impact of a binding vote on pay.

In September 2011 the Department for Business, Innovation published a discussion paper on executive pay, seeking views on a range of policy proposals. This was followed by a policy announcement in January 2012 and a further consultation in March 2012 focussing specifically on enhanced shareholder voting rights. The main proposals under consideration in this consultation were:

- An annual binding vote on future remuneration policy
- Increasing the level of support required beyond a straight majority
- An annual advisory vote on how remuneration policy has been implemented in the previous year
- A binding vote on exit payments of more than one year’s base salary

FairPensions has examined the submissions to both consultations from institutional investors and their representative bodies, focussing on the questions pertaining specifically to shareholder rights. We have looked for common trends, themes and attitudes to the various measures discussed as well as to shareholder engagement more generally.

One striking feature of the responses analysed was the relative dominance of asset managers: of the publicly available responses to the first consultation, eleven were from asset managers compared to only four from asset owners. Of the sample of responses to the second consultation provided by BIS, twelve were from asset managers and just one from an asset owner. (For full details of the questions analysed and the sample of responses used, see Appendix 2.)

**Box C: The government’s package of reforms**

- Compulsory triennial binding vote, unless remuneration policy is altered within those three years, in which case a binding vote will be triggered
- Continued annual advisory vote on the implementation of the remuneration policy for the previous year. In the event of this not being approved, the company will have to put the overall remuneration policy to a binding vote at the next year’s AGM
- Shareholder approval needed for exit payments higher than those allowed for in the approved remuneration policy
- Revised regulations on remuneration reports to make them clearer and more transparent
- Disclosure of a single figure of total remuneration for each director
Attitudes to the proposed binding shareholder vote
Of institutional investors’ submissions to the first government consultation, 72% opposed a binding shareholder vote. Only five respondents from a total of 18 examined were in favour, and none of these were unequivocally positive. However, the reasons for this fell into two somewhat contradictory camps: those who felt that new powers would not address the underlying problem of lack of engagement, and those who felt that new powers were unnecessary because engagement was already effective.

‘Engagement is already effective: new powers are unnecessary’
Notably, all three investor trade bodies were of this latter view:

- **The Association of British Insurers** stated explicitly that “shareholders already have adequate formal means to hold companies and directors to account” and that “the value of the advisory vote is that it allows investors to signal discontent, rather than immediately placing them in an adversarial confrontation.” They noted that whilst payment for failure “has long been an issue of concern” their guidance was tackling it and progress was being made.

- Similarly, the **National Association of Pension Funds** considered that the advisory vote had had a “significant impact” since its introduction in 2002, and that “the non-binding resolution is particularly effective when coupled with a dialogue between the company and its shareholders”.

- **The Investment Management Association** echoed these responses: “We consider there have been better controls over payments for failure with the increased dialogue around remuneration issues following the introduction of the non-binding vote on the remuneration report. This dialogue takes place well in advance of the AGM and can result in changes being made to remuneration schemes.”

It is interesting to note that by June 2012 and the conclusion of the second government consultation, all three bodies had changed their position and publicly supported the binding vote.17

‘Engagement is inadequate: new powers will do little to change this’
This suggestion that shareholders might do more with the powers they already have was a prominent trend throughout the submissions. Of the sample, 50% of the submissions analysed explicitly stated that shareholders were not using their current powers appropriately and/or effectively. This included both supporters and opponents of the binding vote on pay.

Some, like the Church of England’s Ethical Investment Advisory Group, expressed concerns that whilst a binding shareholder vote would “change the dynamic of company discussions with shareholders on remuneration”, it would not solve a deeper issue of how shareholders choose to exercise their powers: “shareholders could use the current advisory vote on remuneration more effectively”. Similarly, SVM noted “the reluctance of many investors to vote against board”. 

50% of the submissions analysed explicitly stated that shareholders were not using their current powers appropriately and/or effectively.

The major problem is that shareholders are not exercising [their existing] rights.

Aviva
Interestingly, this was the view taken by many of the investors best known for pioneering an active ownership or stewardship approach:

- **Railpen:**
  "The problem is that [engagement on remuneration] still remains the exception and not the norm. Whilst there have been some noticeable shifts in behaviours, for example, representatives from large asset management house [sic] are now attending selective annual general meetings to oppose publicly pay structures, there is a need for fund managers, across the board, to do more in this area."

- **The Co-operative Asset Management:**
  "in the first instance it is important to focus on achieving greater pre-emptive shareholder involvement as this is more important than the relative merits of a binding or non-binding vote."

- **Aviva:**
  "the major problem is that shareholders are not exercising [their existing] rights."

- **F&C:**
  "In our view the key is less to invent new tools for investors, rather to ensure that a more significant component of the institutional investor community makes diligent use of existing tools."

Taken together, these responses do not present an encouraging picture. On the one hand, large parts of the shareholder ‘establishment’ appeared not to share the government’s basic assumption that there is a problem with shareholder oversight of executive pay. On the other, many of the most engaged investors saw this stance as a symptom of inadequate shareholder appetite for engagement, and warned that the effectiveness of new powers would be limited unless this is directly addressed. Both views suggest that, while improved tools for shareholders may be necessary to improved oversight, they are certainly not sufficient. There is an urgent need to shift the focus of attention onto shareholders’ ability and willingness to use their powers effectively, and to address barriers to greater engagement.

### Box D: Other issues raised by responses

- **Abstentions:** The ABI noted that “some companies believe that withheld votes, or active abstentions, can be disregarded despite the fact they are cast by investors to signal concern”. The Co-operative Asset Management agreed, suggesting that companies should be legally obliged to count abstentions as a vote cast. This issue was not mentioned in the government’s summary of responses and no move toward clarification has been made. Ignoring abstentions proved decisive in William Hill’s remuneration vote this year.

- **Company attitude:** In direct contrast to those submissions that considered ex-ante engagement to be effective, four asset manager responses noted that remuneration reports were often presented to them as a ‘fait accompli’ and that engagement was often more of a tick-box exercise than an opportunity for real dialogue and change. As The Co-operative Asset Management put it, “at the moment shareholder consultations are shrouded in mystery. Each shareholder is addressed individually and is typically told other shareholders are ‘broadly supportive’ and if they have a concern they are anomalous to other participants.”

- **Contracts and termination pay:** concerns centred on contractual clarification of what constitutes failure and a more rigorous enforcement of contractual terms to avoid significant termination payment in the event of a ‘bad leaver’. Several respondents suggested termination pay be subject to a binding vote.
The evolution of government proposals
The second phase of consultation ultimately saw the original proposals amended in two ways. Both of these give an insight into some of the dynamics at play.

The 75% ‘supermajority’
Government had originally proposed to raise the level of support needed on remuneration reports from 50% to a ‘supermajority’ of 75%. By late April, it was already being reported that Cable had decided to back down under considerable industry pressure, after the Institute Of Directors (IoD) called the idea “flawed” and the Confederation of British Industry (CBI) described it as “damaging”. Investor responses to the consultation raised concerns that a 75% threshold would hand too much power to minority shareholders, with some citing Easyjet as an example of the dangers. They also noted that it was difficult to justify why votes on remuneration should be subject to a different threshold from other routine shareholder votes.

And yet, as the IoD’s consultation response points out, there were much bigger questions underlying the debate about thresholds:

> “We recognise that achieving shareholder dissent of more than 50% in shareholder votes on remuneration policy will be a major practical challenge. However, this is a symptom of a wider lack of underlying stewardship amongst institutional investors rather than any reflection of the legitimacy of the 50% plus one decision-making threshold. Rather than compensating for weak shareholder engagement by means of arbitrarily defined voting thresholds on individual issues, it makes more sense for public policy to address the underlying causes of shareholder passivity, e.g. through the Stewardship Code, strengthening of investors’ fiduciary responsibilities, or the creation of other incentives to promote more active ownership.”

In other words, the fact that the 75% threshold was proposed at all was a tacit recognition of the shortcomings of shareholder engagement. Its abandonment should therefore be accompanied by measures to address those shortcomings head-on.

The frequency of the binding vote
The government had originally proposed an annual binding vote on remuneration; its final package included a triennial vote on remuneration policy modelled on the Dutch system. Some declared that Cable had ‘watered down’ his proposals – but again, to miss the more interesting question of what this process tells us about shareholder attitudes.

In the second consultation, 50% of the sample we analysed supported the annual binding vote – a significant increase on the first consultation – with a further 13.6% supporting some form of binding vote but disagreeing that it should be annual. But one key theme that emerged from these responses was a concern about ‘micro-management’. The Investor Relations Society argued that shareholders “do not see their job as running the company or setting exacting remuneration policies”, while the ABI stressed that “it is not for shareholders to micromanage a company’s remuneration policy.” This was echoed in public comments during the weeks leading up to the government’s announcement; in an interview with the Financial Times on 13 June, the head of equity at a leading European fund manager said: “Shareholders want power when chief executives are abusing their positions, but we do not want to manage every little detail. We are a check on companies, not their managers.”
Investors also expressed concern about the resources involved in this level of oversight. The NAPF described the key cost of the proposals as the “need for a more effective engagement process”, noting that it would “require resources and skills which many investors simply do not have at present, for something which many would not regard as a primary concern”. JP Morgan warned that an annual binding vote would increase the already disproportionate resource which investors must devote to pay issues, preferring an approach that would “allow overworked corporate governance teams (as well as remuneration committees) to ‘set up and forget’ remuneration plans.” On the other hand, Railpen acknowledged that investors might find enhanced engagement challenging, but argued that this was “an upfront increase which may dissipate over time”.

In other words, insofar as the annual binding vote was rejected by investors, it seems this was because they regarded it as an unwelcome extension of their role. The equation of an annual binding vote on pay with ‘day-to-day micro-management’ of companies suggests that many shareholders have a fairly limited and hands-off view of their remit as owners.  

The equation of an annual binding vote on pay with ‘day-to-day micro-management’ of companies suggests that many shareholders have a fairly limited and hands-off view of their remit as owners.

Box E: Nominations Committees

The first of the two consultations raised the possibility of a shareholder representative on nominations committees. The almost unanimous opposition to this idea may be indicative of shareholders’ reluctance to assume a more hands-on ownership role. No respondent of the 18 analysed was strongly in favour of the proposition, with four suggesting it may merit further exploration but with evident misgivings of how it could work in practice. Investors baulked at the resource implications of assuming such a role: “for some companies it may prove difficult to find shareholder representatives willing to participate” (Henderson). Concerns were also raised about the potential of becoming ‘insiders’: this suggests that investors wish to act as owners only insofar as it does not compromise their ability to act as traders. Other reasons for opposition included the dispersed and international nature of shareholders, the lack of shareholder expertise, and the difficulty of selecting the ‘right’ shareholder.

Conclusion

The overall picture painted by these responses should give policymakers pause for thought. It is possible to view the final package of reforms as a compromise between policymakers keen to empower shareholders, and institutional investors reluctant to assume these powers. In this context, it seems clear that there is still more to be done if shareholder oversight – both of executive pay and of companies more generally – is to become truly effective. While measures to make directors more accountable to shareholders are welcome, they should not be seen as the end of the story. Policymakers must now turn their attention to the next link in the governance chain: the relationship between institutional investors and the savers whose money they manage.
Chapter 3: Transparency and accountability

Debates about shareholder rights on executive pay have often proceeded as if the asset managers who predominantly exercise those rights are the ultimate owners of companies. Yet asset managers are agents just as much as company directors are. Often, they are agents of institutions such as pension funds who themselves own shares on behalf of thousands of individual savers.

Mount even goes so far as to suggest that, contrary to conventional wisdom, “the interests of the two sets are all too neatly aligned”: both are part of the same ‘revolving elite’, depending for their remuneration on maximising the company’s share price over the short term.22 This may not correspond to the interests of underlying owners.

Analysis by Nils Pratley, the Guardian’s financial editor, suggests there is something in this argument. Pratley compared the CBI and IMA’s responses to the government’s original call for evidence on long-termism and executive pay. The two responses were strikingly similar – indeed, identically worded in places – on key issues (see Box F below).23

It could also be added that asset management firms are subject to institutional conflicts of interest which may hinder their ability to challenge companies. One academic paper recounts a case where “the company secretary of a UK manufacturer reminded a fund manager who was intending to vote against the company’s remuneration report that his firm was bidding for an investment mandate from the corporation’s pension plan.”24

Box F: CBI and IMA positions on executive pay

<table>
<thead>
<tr>
<th>CBI</th>
<th>IMA</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Directors’ remuneration, as with remuneration generally, is ultimately determined by market force in a free economy. The largest and most successful companies have to compete globally for talent, and competition for the best people is fierce.”</td>
<td>“Remuneration, including directors’ remuneration, is ultimately determined by market forces in a free economy. The largest and most successful companies have to compete globally for talent, and ensure they can recruit the best people.”</td>
</tr>
<tr>
<td>“Shareholders do not seek or want management responsibilities for remuneration,”</td>
<td>“Institutional shareholders do not seek or want management responsibility for remuneration.”</td>
</tr>
</tbody>
</table>
The missing link
This chapter focuses on the second of Mount’s two disconnects: that between institutional shareholders and the savers whose money they manage. Examining this relationship was part of the task given to Professor John Kay in his Review of UK Equity Markets. This focus on aligning the interests of institutional investors and their beneficiaries is long overdue, and has the potential to revitalise the debate on shareholder oversight.

As with the disconnect between directors and managers, there are various mechanisms for closing this accountability gap:

- **Legal accountability mechanisms.** Fiduciary duty is the main mechanism in UK law for ensuring that agents act in the interests of their principals. Drawing on FairPensions’ own research, the Kay Review sees the concept of fiduciary duty – properly understood – as a key part of the solution to dysfunctional capital markets. But he also acknowledges that, improperly understood as a narrow duty to maximise short-term financial return, it has too often been part of the problem. FairPensions supports moves to clarify the content of fiduciary duties, encouraging a broad-based, long-termist stewardship approach, and to extend this broader understanding to all those managing other people’s money. FairPensions has written extensively on this subject elsewhere and so this report will not rehearse the arguments further.

- **Remuneration structures that align incentives.** For a long time this was the dominant approach to resolving the disconnect between directors and shareholders. However, it is increasingly recognised that long-term incentive plans have added to complexity and arguably helped to drive up overall levels of pay whilst failing to effectively tie pay to performance. Efforts to address perverse financial incentives for asset managers to fixate on quarterly returns are welcome, but experience suggests that they are unlikely to be sufficient.

- **Direct accountability to ultimate owners.** This is the logical extension of the current policy consensus on executive pay – namely, that shareholders should be empowered to hold directors to account. Where these shareholders are institutions acting on behalf of individual savers, and where the interests of the two are not obviously aligned, there is a case for extending similar accountability mechanisms to the next link in the chain. Arguments for greater direct accountability derive not just from an economic analysis of the principal/agent problem, but also from the moral principle that power should be accountable to those on whose behalf it is exercised.

The rest of this chapter focuses on the last of these three mechanisms. It examines what the ‘Shareholder Spring’ tells us about the accountability of institutional investors (both asset managers and the pension providers who employ them) to ultimate owners, and explores how this might be improved.

> **Arguments for greater direct accountability derive not just from an economic analysis of the principal/agent problem, but also from the moral principle that power should be accountable to those on whose behalf it is exercised.**

Our analysis is twofold:

- Firstly, we have analysed the responses received by beneficiaries who used FairPensions’ online action tool to contact their funds about their voting intentions on pay.

- Secondly, we have sought the voting record of 20 top fund managers for ten controversial remuneration reports (see Chapter 1), to assess how easily this information can be obtained.
Your Say on Pay: Responses to saver queries

On 30 April 2012, FairPensions launched its Your Say on Pay initiative. At the heart of this project was an online action tool enabling beneficiaries to email their pension funds or stocks and shares ISA providers, asking them to “vote against excessive executive remuneration and rewards for failure” in this year’s AGM season. The tool provided a model email text which savers could edit before sending (see box G), setting out four ‘red flags’ which we would expect to trigger a vote against.

Box G: Online action tool text

Dear [name of fund or provider]

I am writing about the problem of high pay and bonuses at companies in my fund.

I urge you to vote against excessive executive remuneration and rewards for failure this year.

In particular, I would like you to ensure that the voting rights are used to oppose remuneration proposals that:

- have single performance criteria in executives’ incentive plans;
- include a transaction related bonus or ‘Golden Hello’;
- have moved the performance goal-posts on executives’ incentive plans; and/or
- provide for variable pay which is more than 200% of executives’ base salaries.

Please let me know some time later this year how the fund’s votes have been cast at companies where any one or more of these poor practices have featured in a company’s remuneration report. For example I understand that at BP the CEO’s variable pay was in excess of 900% of his base salary.

At the time of writing, 246 funds had received one or more emails from savers. FairPensions asked those who took the online action to forward any responses received on to us for the purposes of this analysis. We received responses from 26 different funds in total – just 10.6% of all those contacted. We cannot know how many savers neglected to forward their responses, but we can make a reasonable assumption that at least some of those funds for whom we have seen no responses did not reply at all. Our sub-set of responses may therefore show an over-optimistic picture.

We have analysed the 26 responses to assess:

- whether the reply was adequately substantive,
- whether it addressed the specific issues raised, and
- whether or not the provider stated that it does or will disclose its voting record.

Where direct quotes from responses have been used, all identifying information has been redacted.

Substance: Addressing the issue of remuneration

There was a wide variation in the quality of responses. Two were merely an acknowledgement of receipt, with a promise to follow up. Since no follow-up email was provided to us, we have excluded these from further analysis. Of the remaining 24 responses, eight (33%) made no reference whatsoever to remuneration or pay, failing to acknowledge the central issue they had been contacted about. Of those 18 who did refer to remuneration, only 11 went into detail, such as attaching their voting policy or giving examples of instances in which they would oppose a remuneration report. The remaining seven responses merely used the word ‘remuneration’ once but gave no further relevant information.

Of the 11 providers that did respond substantively to the questions asked, many gave a broad-brush outline of their voting strategy, such as this one:

“When considering remuneration schemes we tend to favour structures that are stretching and appropriate; aligned with strategy; simple to understand yet well-balanced in terms of incentive targets; and long term in orientation.”
Although more substantive than most of the responses analysed, the beneficiary is left only marginally wiser by this type of response. It does not give specific examples of instances that might provoke an opposition vote, nor does it acknowledge the triggers laid out in the beneficiary’s message.

Overall, only three of the responses analysed (12.5%) referred to the bad practice triggers listed in the email or gave detailed information on their own policy’s specific triggers. Best practice responses were those that detailed their criteria for voting down remuneration reports, gave evidence of a history of robust voting practices, stated public disclosure of votes and gave links to relevant documents. Extracts from such a response are shown in Box H. (Due to the level of detail given by this provider, it has not been possible to reproduce their response in full.)

**Box H: Best practice**

Dear [name redacted],

Thank you for your recent email regarding the topic of executive remuneration which has been of interest to us for many years and is now more topical than ever.

At [fund name] we take our role of shareholder extremely seriously using our influence, through engagement and the use of our voting rights at every AGM and EGM where we have a holding, to promote good corporate governance in investee companies. […]

To this end, we have a dedicated Corporate Governance team which sits within our Responsible Investment team who review every resolution and vote according to our Corporate Governance and Voting Policy looking at a wide range of topics from board composition, independence and gender to executive remuneration and reward. [website link given]

Regarding your specific areas of concern, I would refer you to page [x] of our Voting Policy which clearly sets out what we will and will not support in terms of executive remuneration. For example, we will not normally support a remuneration report where there is excessive remuneration in regard to the performance of the company, the company pays transactional bonuses or the company makes ex-gratia payments such as golden hellos or retention bonuses. Furthermore, the cut off of 200% of base salary is another of the factors we take into account when casting our votes on the remuneration report. With respect to [company name] we have voted against the approval of the remuneration report every year since 2007.

We also believe that it is important for asset managers to disclose how they cast their votes so you can see how we are holding companies to account on matters such as this. You can find our voting records for each and every company we hold, globally, here – [website link]

In addition, we always take the time to complete the TUC Fund Managers Survey and we are often cited as examples of best practice - [website link]

And finally, we report annually on all our corporate governance activity in our quarterly reviews which can be found at - [website link]

And also within The [Group Name] Sustainability Report which can be found here – [website link]

Yours sincerely, [name redacted]
Box I: Poor practice

Thank you for your e-mail of 14th May. As your provider, [fund name] use a range of investment management companies to run our products. In order to maximise returns and benefit from specialist skills these management companies, in turn, own any voting rights in relation to the direct equity holdings of your product.

The Investment Manager will vote in line with their own voting rights policy and these will differ between companies. However, there is, of course, an appreciation of the importance of remuneration schemes in driving ethical behaviours and actions that maximise shareholder interest.

Oversight: Providers’ attitude to delegation of voting rights

Customer emails were sent to asset owners (pension funds and insurance companies). Of course, these institutions generally do not carry out day-to-day voting and engagement activity themselves: instead this is done by their asset managers, either internal or external. This delegation led to a wide variation in the quality of responses.

Some emails were passed on to internal asset managers for a response. This was more common amongst commercial providers with in-house asset management arms holding responsibility for corporate governance activities. Three such responses stated that the funds have in-house voting teams who look over company reports and vote on behalf of the fund. Interestingly, the two best responses we analysed both came from in-house voting teams (one belonging to an occupational pension fund, the other to the asset management arm of a commercial pension provider).

Where emails were answered by asset owners themselves, attitudes to delegation (and hence the quality of information provided) varied widely. Five respondents stated that they delegate votes to fund managers with little or no indication of oversight, whilst four stated that they actively monitor their delegated votes. Overall, seven stated that they use an advisory service, such as PIRC or Hermes Equity Ownership Services.

Some simply stated the fact of delegation as an explanation for failing to provide any further information, as in the following example:

“Eight responses (33%) made no reference whatsoever to remuneration or pay; seven responses merely used the word ‘remuneration’ once but gave no further relevant information.”

“Such investments are managed on a day to day basis by professional fund managers working for firms such as [names redacted]. As such, this does not provide [pension fund] with the opportunity to vote on the remuneration policies of individual companies held within an investment portfolio.”

Some providers who took this line went so far as to imply that their customers’ emails reflected a misunderstanding of the way the investment chain worked: they would not be voting on executive pay themselves and so should not have

“delegation is not the same thing as abrogation. Asset owners remain responsible for overseeing external service providers in the interests of their beneficiaries.”
been contacted. Yet delegation is not the same thing as abrogation. Asset owners remain responsible for overseeing external service providers in the interests of their beneficiaries. It is therefore not unreasonable to expect some degree of oversight of the voting and stewardship behaviour of external asset managers. This was reflected in the best asset owner responses, as in the following example:

“A key development in our Responsible Investment strategy over the past fiscal year was the hiring of [fund manager] as our voting and engagement service provider. This has allowed [pension fund] to have a more consistent and controlled approach to its voting policy... the [pension fund] exercises the right to override [fund manager]’s voting recommendations on a case by case basis, as part of our oversight of their service.”

Unfortunately, this example was the exception rather than the rule. All too often, delegation by asset owners to asset managers appears to represent a broken link in the chain of accountability to ultimate beneficiaries: many savers who contact their fund do not receive a meaningful answer but are simply informed that the relevant powers have been delegated. Ideally, funds in this position should either contact their fund managers and relay the relevant information to their beneficiaries, or they should pass the enquiry on to the fund managers to respond to beneficiaries directly.

**Transparency: Providers’ disclosure of voting information**

11 responses (or 46%) stated that they do and will disclose their voting (some via advisory services); only five of these actually provided links to the relevant page on their websites. Mixed responses were received from six funds; for example, that they only disclose votes on environmental issues or that they disclose a summary of voting activity, rather than company-specific information. Of the remaining nine responses, eight failed to acknowledge that the beneficiary had even asked for voting information, and one stated explicitly that it would not be disclosing its votes:

“we cannot ...respond to requests of individual holders of our funds to provide details of the way in which we have voted.”

This fund is a signatory to the Stewardship Code, and yet this stance goes against the spirit of Principles 6 and 7 of that Code. The fund does not offer an explanation for its refusal to disclose its votes.
None of the responses we analysed offered to follow up with the saver to let them know how they had voted: even the best responses relied on savers to proactively trawl the provider’s public voting disclosures to find the relevant information. As we shall see, this may be easier said than done.

**Public voting disclosures**

Principles 6 and 7 of the Stewardship Code provide that institutional investors should have clear policies on voting and disclosure of voting activity, and should disclose their voting records publicly. Public disclosure is vital to the creation of an effective market for stewardship, since it gives clients, potential clients, beneficiaries and consumer organisations an objective means of comparing the stewardship activity of different institutions.

None of the responses we analysed offered to follow up with the saver to let them know how they had voted

Our analysis of remuneration votes at selected companies by the UK’s largest fund managers (see Chapter 1) highlighted important gaps in transparency. Although we were able to find at least some voting data for most fund managers, this was often inaccessible. A handful did not disclose anything, or had not yet published their voting data for the relevant period. One fund manager told us that they disclose more than nine months after the voting has taken place due to ‘sensitivity’ issues, yet others feel able to disclose in quarterly arrears without being compromised. BlackRock does not disclose in the UK, but we were able to find some information on the relevant votes by searching their filings in the US, where disclosure is mandatory for mutual funds. For others we relied on specialist knowledge or direct contact with managers to find the relevant information. In many cases the information published in Chapter 1 would therefore not realistically be accessible to an ordinary saver.

Moreover, even the information we were able to access was often incomplete. Two fund managers only disclosed information about selected companies, rather than full records: in the case of Threadneedle, voting information was only available for one of the ten companies we looked for. In practice the number of funds disclosing partial information is probably higher: in some cases it was not possible for us to tell whether the absence of information indicated incomplete disclosure, a failure to vote, or simply that the relevant company was not held.

Furthermore, nine fund managers (around half of those who disclosed) gave no reasons for their votes. Even of those who did give reasons, only one included explanations for votes in favour as well as opposition votes or abstentions. To illustrate why this matters: of those who disclose their votes on Barclays’ remuneration report, all opposed it except Standard Life and BlackRock. No reason is given in these managers’ disclosures for their decision. Arguably, beneficiaries seeking to understand the stewardship of their assets would be much more interested in why Standard Life or BlackRock voted for Barclays’ remuneration report than in why their peers voted against. Rationale should be given for all significant or controversial votes, whether or not the fund has supported management.

In sum, beneficiaries seeking to understand how their fund voted and why at a particular company face a lottery at present, with a significant chance that they will not be able to find the information they are looking for in a timely manner. Likewise, attempts to make systematic comparisons of different managers’ votes on a particular issue – and, in particular, to understand their stewardship approaches by comparing reasons for controversial votes – are hampered by the incompleteness of the data.
Aggregate figures on levels of disclosure disguise this variation. For instance, the IMA’s survey suggests that 73% of asset managers now disclose their votes, a figure cited by Vince Cable in his oral evidence to the BIS select committee in June 2012. FairPensions believes this statistic to be misleading as it includes investors who only disclose summary statistics with no company-specific information. Research by PIRC suggests that, even among Stewardship Code signatories, the proportion disclosing full voting information is just 21%. Even according to the IMA survey, disclosure levels only improved by 4% in 2010-11, suggesting that the rate of voluntary improvement is beginning to plateau.

There is therefore a strong case for the exercise of the government’s reserve powers under section 1277 of the Companies Act 2006 to make voting disclosure mandatory for institutional investors. Government should seek to ensure that disclosures are comparable and meaningful by requiring that they:
• are searchable;
• are broken down by company and resolution;
• are timely, ideally at least quarterly in arrears; and
• include rationales for significant or controversial voting decisions.

Conclusion
On the whole, transparency and accountability to the ultimate providers of capital remains weak. Isolated examples of best practice – both in responding to savers’ queries and in publicly disclosing useful information – demonstrate that it is possible for institutional investors to do much better on this without incurring undue cost or administrative burdens. We strongly encourage the investor community to examine and learn from the best practice highlighted in this report. Government can support this process by empowering savers with better rights to information.

"beneficiaries seeking to understand how their fund voted and why at a particular company face a lottery at present, with a significant chance that they will not be able to find the information they are looking for"
Executive pay in 2012 has been a litmus test of the effectiveness of shareholder engagement. The almost unprecedented profile of shareholder votes was welcome, and signs of increased activism are encouraging. However, our findings suggest that we should be cautious about exaggerating the significance of the so-called ‘Shareholder Spring’:

- Firstly, the handful of defeats on executive pay, although undoubtedly significant, was not the unprecedented wave of rebellion that has been portrayed. There was no overall trend towards higher levels of dissent on remuneration, and seemingly little consistency in the factors driving rebellions at individual companies. Our analysis of voting information also suggests a continued unwillingness at several large UK asset managers to challenge company management.

- Secondly, although some institutional investors clearly take their ownership responsibilities very seriously, there is little evidence that 2012 marked a sea-change in overall attitudes to shareholder oversight. There remains a lack of appetite in some quarters for increased responsibilities, with asset managers and investor trade bodies often resisting attempts to enhance their oversight role.

It is therefore time to revisit the assumption that achieving effective shareholder oversight is a simple matter of giving shareholders better tools to hold company management to account. This analysis might hold if shareholders had been repeatedly using their advisory vote to defeat remuneration reports and finding their votes overlooked by companies – but this is not the case. We welcome the binding vote on remuneration policy as a step forward, but it is only a first step and certainly should not be the last.

Policymakers should now turn their attention to the next link in the investment chain: that between institutional investors and the individual savers whose money they manage. Our analysis suggests that there remains a serious lack of transparency and accountability in this relationship. Policymakers should take steps to address this, including by empowering ultimate owners themselves to hold their agents to account. This is the logical extension of the government’s current strategy of empowering shareholders.

### Recommendations

- **Mandatory disclosure of voting activities by institutional investors**, including the rationale behind significant decisions, would help to close the accountability gap between these institutions and ultimate providers of capital.

- **Reinvigoration of fiduciary duty** is needed – both to reorient interpretations away from short-term return-seeking and towards long-term stewardship, and to extend this refreshed interpretation to all those with responsibility for other people’s money.

- Institutional investors themselves should strive to **improve communication with their beneficiaries/customers**, providing meaningful, specific answers to queries about the exercise of shareholder rights on their behalf. We would also encourage investors to respond directly to queries about how particular votes have been cast, rather than solely referring savers to their public disclosures. Delegation to external service providers should not be a barrier to such accountability.

- **Clarification of the status of abstentions** is needed so that companies can no longer overlook abstentions as ‘non-votes’, rather than as withheld votes that signal investor disapproval.
Appendices
Appendix 1: Ten controversial remuneration reports

Below are the ten companies we selected for our analysis with an explanation of why they were selected as instances of bad practice. In most cases this relates to one of FairPensions’ four ‘triggers’ which were developed in consultation with investors and remuneration experts. Trinity Mirror and Pendragon did not breach any of the triggers but were selected because they suffered significant and high-profile investor revolts.

<table>
<thead>
<tr>
<th>Company</th>
<th>Triggers breached</th>
</tr>
</thead>
<tbody>
<tr>
<td>BP</td>
<td>Potential bonus award for CEO Bob Dudley of 923% of salary</td>
</tr>
<tr>
<td>Barclays</td>
<td>Potential bonus award for Finance Director Chris Lucas of 225% of base salary. In addition, CEO Bob Diamond was awarded a one-off payment of £5.745m as ‘tax equalisation’</td>
</tr>
<tr>
<td>Aviva</td>
<td>£2.2m ‘golden hello’ award for UK head Trevor Matthews.</td>
</tr>
<tr>
<td>Rolls-Royce</td>
<td>A restricted shares award was made to incoming CEO John Rishton with a single performance criterion of continued employment attached.</td>
</tr>
<tr>
<td>William Hill</td>
<td>£1.2m retention bonus awarded to CEO Ralph Topping</td>
</tr>
<tr>
<td>Pendragon</td>
<td>Proposed raise annual performance-related pay to 150% of base salary for 2012, up from 100% in 2011</td>
</tr>
<tr>
<td>Trinity Mirror</td>
<td>CEO Sly Bailey received pay of £1.7m despite share price plummeting 90% over the 9 years she since she took the helm.</td>
</tr>
<tr>
<td>Caim Energy</td>
<td>One-off payment made to Sir Bill Gammell on transition from CEO to Chairman.</td>
</tr>
<tr>
<td>Prudential</td>
<td>Bonus conditions for Executive Director Barry Stowe were altered.</td>
</tr>
<tr>
<td>WPP</td>
<td>Potential bonus award for CEO Sir Martin Sorrell of 500% of base salary.</td>
</tr>
</tbody>
</table>
Appendix 2: Government consultation responses analysed

The first consultation we analysed was ‘Executive remuneration: a discussion paper’,29 which ran from September 2011 – November 2011. The questions analysed were:

Q1. Would a binding vote on remuneration improve shareholders’ ability to hold companies to account on pay and performance? If so, how could this work in practice?
Q2. Are there any further measures that could be taken to prevent payments for failure?
Q3. What would be the advantages and disadvantages of requiring companies to include shareholder representatives on nominations committees?

Using the responses published on the BIS website, we endeavoured to extract all responses from asset owners, asset managers or investor trade bodies. These were:

**Investor trade bodies**: ABI, IMA, NAPF


**Asset owners**: Church of England Ethical Investment Advisory Group, Railpen, LAPFF, USS

*indicated that they were responding both on behalf of Aviva Investors and as Aviva plc

The second consultation we analysed was ‘Directors’ Pay: Consultation on Enhanced Shareholder Voting Rights’, which ran from March 2012 – April 2012.30 The questions analysed were:

Q1. The Government proposes to require an annual binding vote on remuneration policy. What are the costs and benefits of this approach?
Q6. The Government proposes to increase the level of shareholder support that should be required to pass the vote on future remuneration policy. Do you agree with this approach and if so, what would be an appropriate threshold?
Q8. The Government proposes to give shareholder a binding vote on exit payments of more than one year’s base salary. Do you agree with this approach or would an alternative threshold for requiring a shareholder vote be more appropriate?

BIS kindly agreed to share with us a representative sample of responses from investors and investor trade bodies. The full set of responses has since been published on the BIS website and so we have not redacted the names of individual respondents. The responses provided to us for analysis were as follows:

**Trade bodies**: ACCA, ICAEW, ICAS, IOD, Investor Relations Society, Law Society, NAPF, IMA, ABI


**Asset owners**: Railpen
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2 See http://www.ft.com/cms/s/0/9ec5594c-6f8f-11e1-b368-00144feab49a.html
4 Pendragon: http://www.investegate.co.uk/article.aspx?id=201205101258380891D
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11 http://www.guardian.co.uk/business/2012/may/22/tesco-chief-turns-down-bonus
13 http://www.pirc.co.uk/news/uk-2012-half-year-voting-trends
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26 http://www.investmentuk.org/research/stewardship-survey/
27 http://www.publications.parliament.uk/pa/cm201213/cmselect/cmbis/uc460-1/uc46001.htm
28 http://www.bis.gov.uk/Consultations/executive-remuneration-discussion-paper