KPMG MAKINSON COWELL

Review of the 2019 AGM season

January 2020

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Contents

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Summary

With the year now complete, we have seen that the 2019 AGM season followed a very similar pattern to 2018. The vast majority of AGM resolutions were overwhelmingly supported by shareholders, with for example just 29 resolutions at FTSE 100 AGMs receiving less than 80% support. The 80% level of support being particularly important given that a vote of less than 80% triggers the inclusion of the company on the Investment Association Public Register. There was just one example of a FTSE 100 AGM board recommended resolution being defeated, with the Directors' Remuneration Report (DRR) not being approved by shareholders at the Micro Focus AGM.

Remuneration remained the main shareholder concern this year, as it has done for many years now. The Investment Association updated Remuneration Guidelines put an even greater spotlight on the pension contributions made to senior executives, but when it came to voting outcomes companies received a significant negative vote against the DRR typically for one of the following reasons:

An overall increase in actual or potential pay, arising from salary awards ahead of the general workforce, an increased LTIP award etc.

A perceived lack of alignment between pay and the performance of the company in the year

Away from remuneration matters more than 2500 directors were elected or re-elected across the FTSE 350 this year. Of these just 37 received less than 80% support from shareholders, and none of these directors failed to get elected. There were however ten instances where resolutions to re-elect a director were withdrawn ahead of the AGM, presumably following negative feedback from shareholders.

The primary reason for shareholders to vote against a director was so called "overboarding" where a director is considered to have too many directorships to be able to apply sufficient time to each of the roles. In a smaller number of cases shareholders voted against the chair of the Remuneration Committee where the company had experienced significant dissenting votes on the DRR over more than one year. It remains the case that most shareholders would not vote against the RemCo chair because of a single instance of disagreement on the DRR.

Looking ahead it seems likely that pay will continue to be the main focus of attention at AGMs next year, with the majority of FTSE companies having to put the Remuneration Policy to a vote in 2020.

For those companies putting the Remuneration Policy to a vote next year, engagement with shareholders will be very important, with companies needing to consider the following points:

Proposing an unchanged Remuneration Policy will not automatically be well received by shareholders. On issues such as pension contributions and malus & clawback shareholders may be looking for revisions to the policy to be in line with the latest Investment Association Remuneration Guidelines.

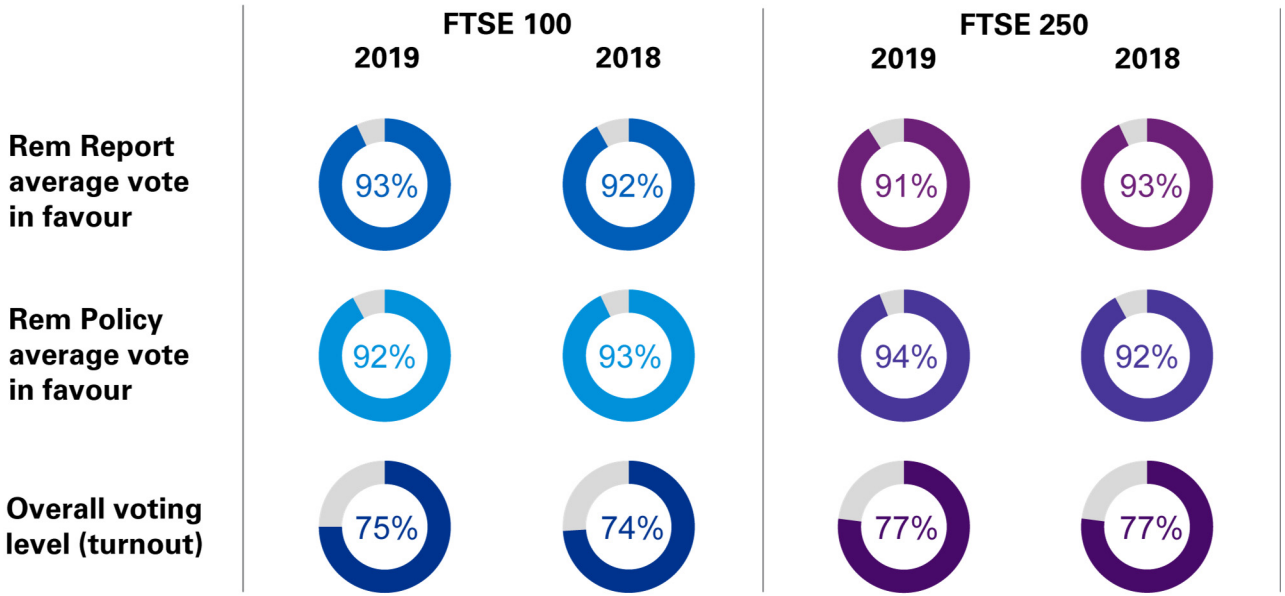
Restricted shares schemes as an alternative to LTIP's have been slow to gain traction. Companies proposing a restricted share scheme are likely to encounter pushback from those shareholders that believe all long term pay arrangements should contain performance conditions. A company looking at an alternative structure to an LTIP will need to ask the questions, does it work for the company strategy, the long term performance of the business and for the shareholders.

Finally, the expectation from shareholders and wider stakeholder groups is that overall pay needs to go down. As regards the Remuneration Policy this means looking at the factors impacting potential pay.

KPMG Makinson Cowell remains well placed to provide advice to companies on all aspects of the shareholder engagement process.

Voting overview

The analysis considers votes in favour of each resolution as a proportion of votes for and against. Shareholder dissent on a particular resolution by abstention or a vote withheld is not a vote in law and thus not counted in the calculation of votes in favour.



Source: KPMG Makinson Cowell analysis

- The average vote in favour for the Directors' Remuneration Report in the 2019 AGM season was 93% for FTSE 100 and 91% for FTSE 250 companies. This is broadly unchanged from 2018 where the level of support was 92% and 93% respectively.
- There has been a similarly strong level of support for the Remuneration Policy whenever it has been voted on, with on average 92% support within the FTSE 100 and 94% support in the FTSE 250 in 2019, again consistent with 2018.
- The overall voting level or turnout has also been comparable between 2019 and 2018. The FTSE 100 average voting level was marginally higher at 75%, with the more UK focused and concentrated ownership of FTSE 250 companies leading to an average vote of 77% of the shares in issue in 2019.
- The UK Corporate Governance Code states that "When 20 per cent or more of votes have been cast against the board recommendation for a resolution, the company should explain, when announcing voting results, what actions it intends to take to consult shareholders in order to understand the reasons behind the result. An update on the views received from shareholders and actions taken should be published no later than six months after the shareholder meeting. The board should then provide a final summary in the annual report and, if applicable, in the explanatory notes to resolutions at the next shareholder meeting, on what impact the feedback has had on the decisions the board has taken and any actions or resolutions now proposed."

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FTSE 100 proxy voting advisors

The next two pages look at voting recommendations made on the DRR by ISS and Glass Lewis, and in addition the Investment Association Institutional Voting Information Service (IVIS) research reports which use a colour coding system to highlight areas of concern and breaches of best practice to be considered at the AGM.

The Investment Association had announced that in the 2019 AGM season it would highlight pensions where contributions still remain over 25% of salary and also Board diversity where companies do not have a sufficient number of women on the board, or are not on course to meet the requirements of the Hampton-Alexander review, for 33% of women on their board by 2020.

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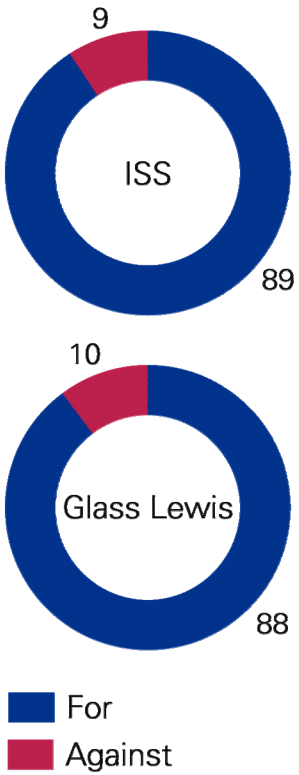
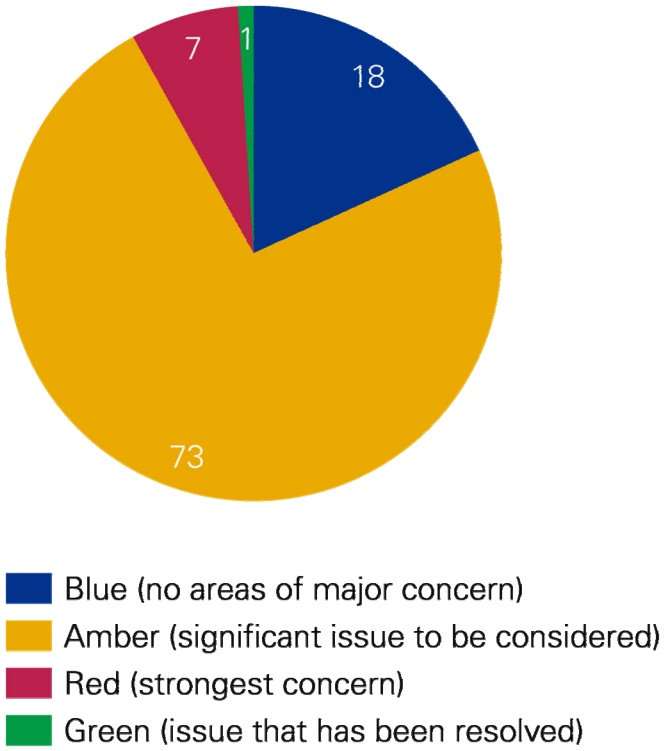
Rem Report recommendations



FTSE 100 IVIS Report Coding



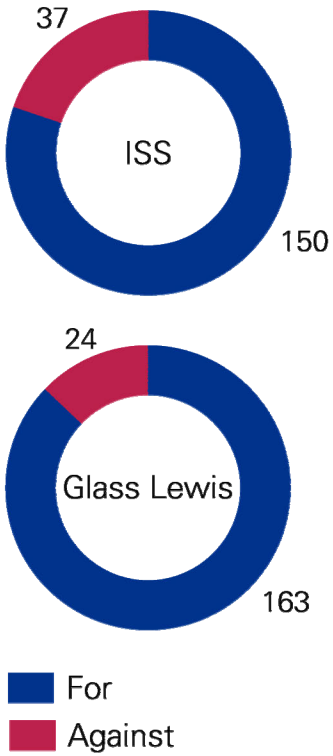
Source: ISS, Proxy Insight, IVIS

- In our analysis, nine FTSE 100 companies received an ISS recommendation to vote against the DRR in 2019 and there were ten such instances as regards Glass Lewis vote recommendations.
- In the FTSE 100, 14 companies have received a negative vote recommendation on the Remuneration Report from ISS, Glass Lewis or both.
- Of the seven companies that received a vote of less than 80% in favour on the Remuneration Report in 2019, four received a recommendation to vote against by both ISS and Glass Lewis. (Ocado, Standard Life Aberdeen, SEGRO and Micro Focus)
- In 2019, 81% of IVIS reports for the FTSE 100 feature either an Amber or Red top colour coding indicating that there are significant issues to be considered, with IVIS highlighting areas including Remuneration, pension contributions, Board diversity and disapplication of pre-emption rights. In comparison, if we look back five years to 2014, the percentage of Amber or Red tops was around 55%.

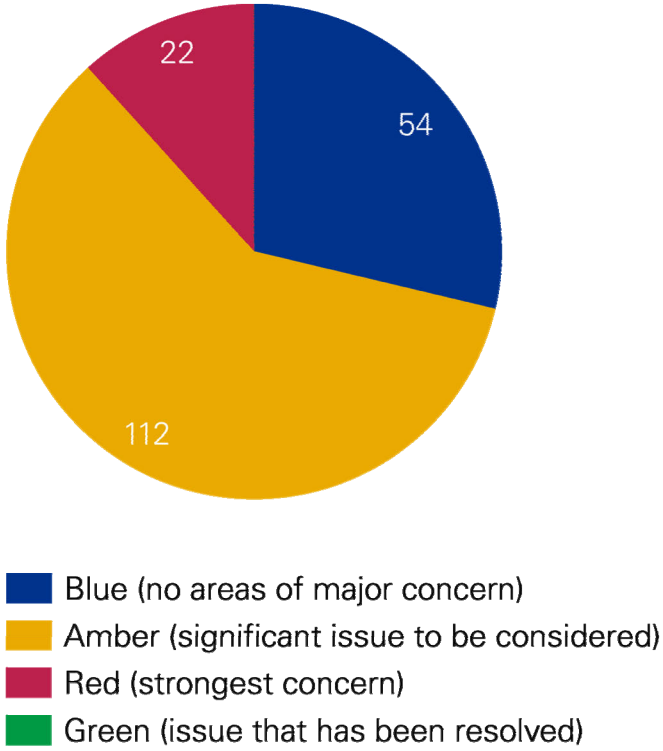
FTSE 250 proxy voting advisors

This chart considers the number of voting recommendations made on the DRR by ISS and Glass Lewis, and the Investment Associations IVIS research report for the FTSE 250.

Rem Report recommendations



FTSE 250 IVIS Report Coding



Source: ISS, Proxy Insight, IVIS

- In our analysis, 37 FTSE 250 companies received an ISS recommendation to vote against the DRR in 2019.
- In the FTSE 250, 46 companies have received a negative vote recommendation on the Remuneration Report from ISS, Glass Lewis or both.
- Of the 30 companies that received a vote of less than 80% in favour on the Remuneration Report in 2019, nine received a recommendation to vote against by both ISS and Glass Lewis. (Metro Bank, Redrow, JD Sports, SSP Group, Sophos Group, Entertainment One, ConvaTec, BCA Marketplace and Clarkson). This suggests a lower level of correlation between ISS and Glass Lewis as regards the FTSE 250 voting outcomes compared to the FTSE 100.
- In 2019, 71% of IVIS reports for the FTSE 250 feature either an Amber or Red top colour coding, indicating that there are significant issues to be considered for these companies. Compared to five years ago, in 2014 the percentage of Amber or Red tops was around 50%.

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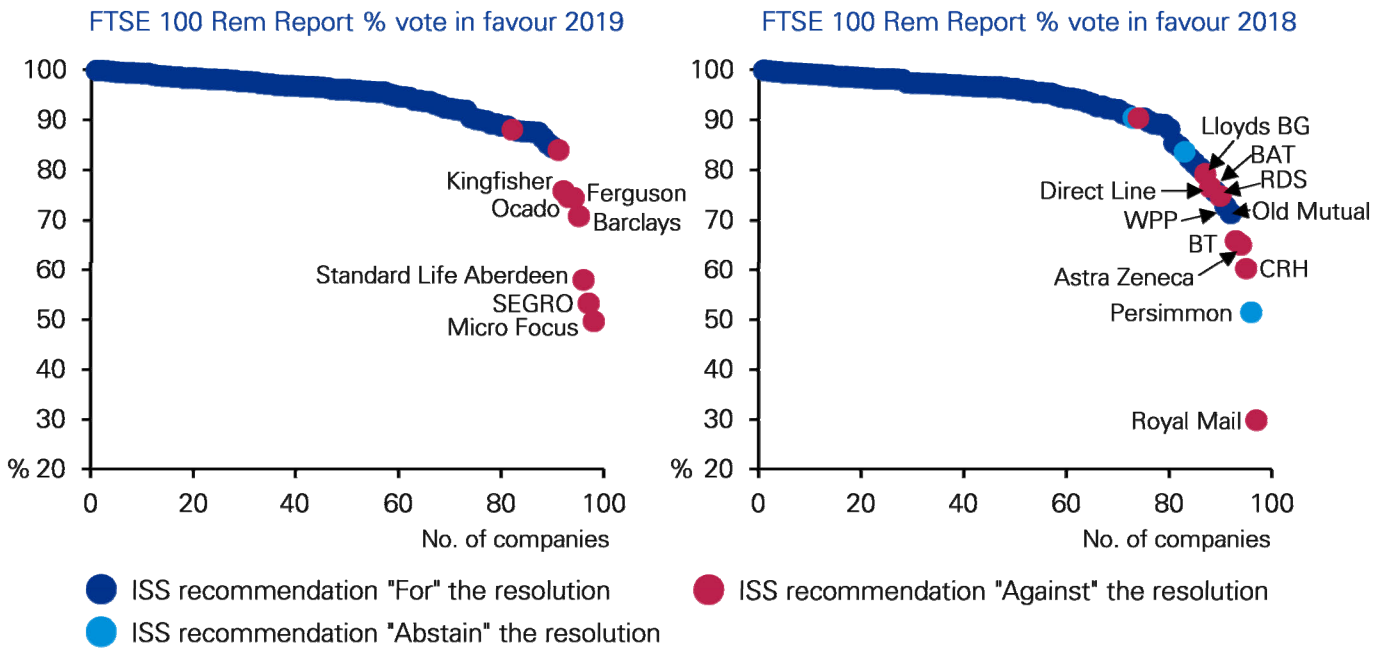
FTSE 100 Rem Report

The charts to the right plot the level of support at FTSE 100 companies on the Directors' Remuneration Report resolution for 2019 and 2018. Each dot represents the voting at a particular FTSE 100 company.

The chart distinguishes companies that received a positive voting recommendation from Institutional Shareholder Service (ISS) – blue dot, an ISS recommendation that shareholders vote against the DRR resolution – red dot and those where ISS recommended that shareholders abstain – light blue dot. ISS remains by far the most influential of the proxy advisory firms.



Source: KPMG Makinson Cowell analysis, ISS

- The charts above show that seven companies encountered significant shareholder dissent in 2019 compared to 11 in 2018. Nine companies received an ISS vote recommendation for shareholders to vote against the Directors' Remuneration Report in 2019, slightly higher than in 2018.
- Micro Focus is the only FTSE 100 company where the DRR has been defeated in 2019. Just over one-half of the shares cast were voted against the Micro Focus DRR. There were several areas of concern including the rebasing of a performance period which gave senior managers extended time to achieve bonus targets (which remained unchanged), lack of stretch in LTIP targets, the awarding of an exceptional LTIP for the incoming CFO without suitable disclosure of rationale and high quantum of pay for the Chairman.
- Another six FTSE 100 companies received less than 80% support for the DRR. The DRR at SEGRO was narrowly approved following concerns over significant increases in total quantum of pay for the CEO, COO and CIO including proposed increase in LTIP opportunity without more stretching targets being disclosed. Standard Life Aberdeen's DRR attracted shareholder discontent over the pay of the incoming CFO with particular attention focussing on the significant award on appointment; a lack of stretch of performance targets was also cited. Shareholder disapproval at Barclays focused on the remuneration committee's response to regulatory investigations and the extent to which it reduced the CEO's annual bonus. At Ferguson shareholders opposed LTIP and salary increases of the CEO and CFO as well as bonus payments for FY2019. Concerns at Ocado focused on lack of stretch under the AIP framework, as well as lack of disclosure on LTIP targets, whilst at Kingfisher bonus payments for the CEO were not seen to be in line with company performance.

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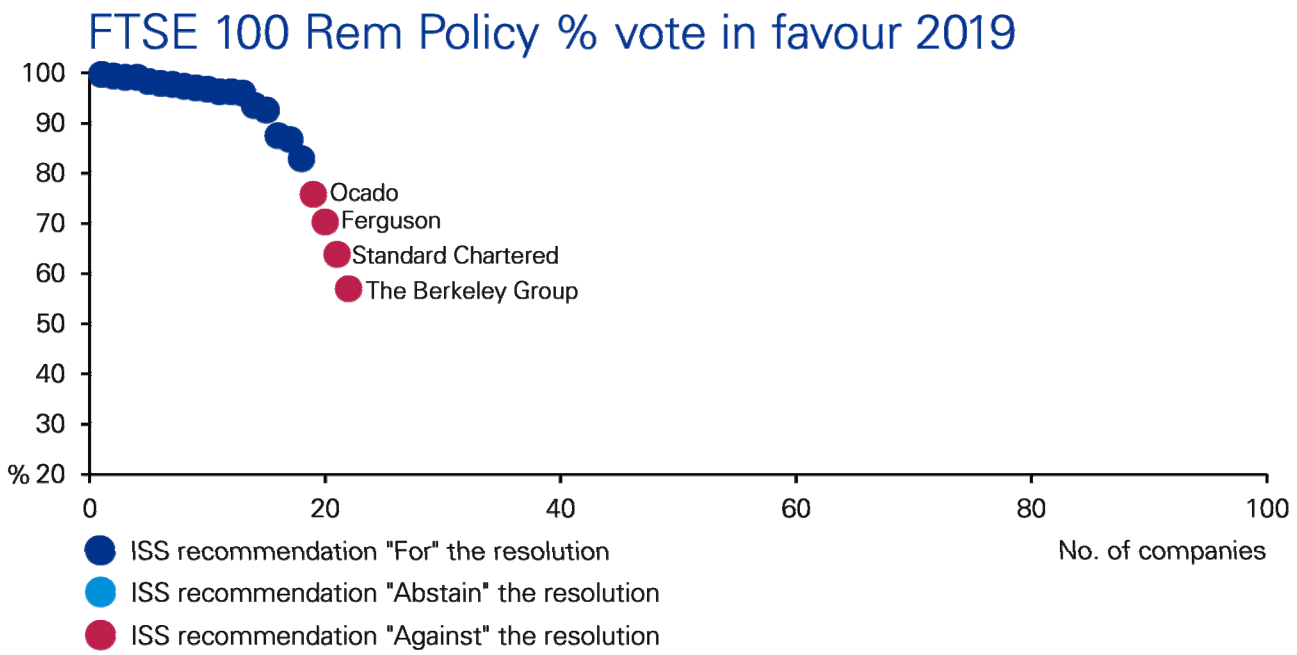
FTSE 100 Rem Policy

The requirement for a binding vote on a company's Remuneration Policy first came into effect in 2014 and any approved policy can stay in place for three years before being voted on again by shareholders.

In 2019, 22 FTSE 100 companies put their Remuneration Policy to a vote, compared to 25 in 2018.

Two-thirds of FTSE 100 companies put their policy to the vote in 2017, and the majority of remuneration policies will therefore renew in 2020 which marks the three year anniversary.



Source: KPMG Makinson Cowell analysis, ISS

- All FTSE 100 Remuneration Policy resolutions were approved by shareholders in 2019, with four companies receiving less than 80% support from shareholders.
- The Berkeley Group received just 57% of votes in favour of its Remuneration Policy after seeking approval to remove the bonus plan and extend the 2011 LTIP in order to align its policy with the new strategy. The extension rewarding executives with a relatively high quantum for maintaining baseline dividend performance.
- Standard Chartered received 64% support for its Remuneration Policy with shareholders opposing how pension contributions would be calculated for its top executives as well as some concerns regarding the disapplication of pro-rating for outstanding LTIP awards on departure in certain circumstances. The change from calculating pension contributions from 40% of base salary to that of 20% of total salary for existing directors, leaves the CEO still receiving a pension benefit representing 40% of cash salary and resulting in executive pensions not being in line with the general workforce.
- At Ferguson only 70% of voting shareholders were in favour of the Remuneration Policy with concerns over the level of bonus and LTIP opportunities for US-based executives which increased from 150% to 200% and 350% to 500% of salary respectively, as well as a lack of post-employment shareholding guidelines.
- Ocado received 76% votes in favour of its Remuneration Policy with shareholders objecting to the levels of executive pay. The quantum on offer from the new AIP which combines the LTIP and annual bonus, increases variable opportunity from 200% to 275% of salary and was not seen to be adequately discounted in relation to the shorter-term annual targets.

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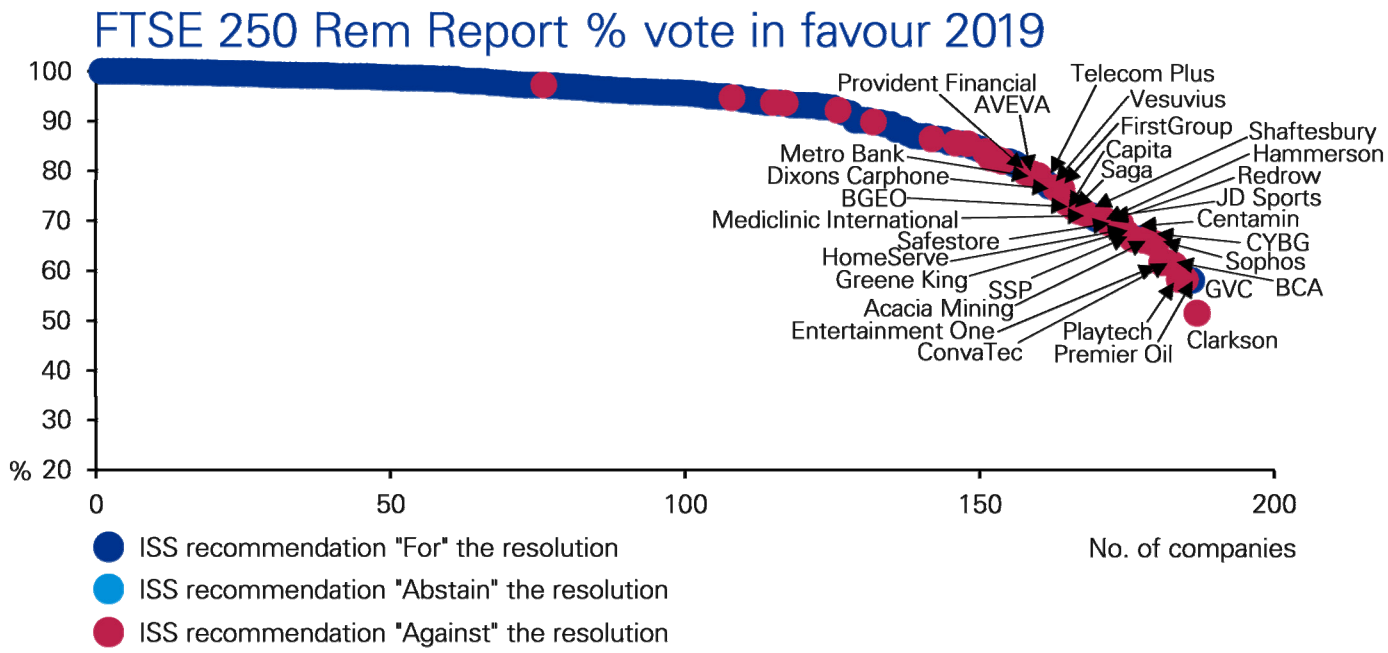
FTSE 250 Rem Report

The chart to the right plots the level of support at FTSE 250 companies, excluding Investment Trusts, on the Directors' Remuneration Report resolution for 2019. Each dot represents the voting at a particular FTSE 250 company.

The chart distinguishes companies that received a positive voting recommendation from Institutional Shareholder Service (ISS) – blue dot, an ISS recommendation that shareholders vote against DRR resolution – red dot and those where ISS recommended that shareholders abstain – light blue dot.



Source: KPMG Makinson Cowell analysis, ISS

- All FTSE 250 DRR resolutions were approved in 2019. Of these, 30 have received less than 80% support from shareholders.
- The DRR at Clarkson was narrowly approved with only 51% of shareholders voting in favour of the resolution. Shareholder concerns focused on excessive bonus pay-outs with the CEO receiving 385% of salary from the uncapped annual bonus scheme.
- GVC, Premier Oil and Playtech each received just 58% support for their respective DRR's. At GVC, there were shareholder concerns over the large quantum of pay as the result of an above inflation basic salary increase and the vesting of a legacy LTIP, despite the CEO agreeing to forego the bulk of his basic salary increase ahead of the AGM. Shareholders at Premier Oil raised concerns around bonus performance measures and their relation to pay-out levels, whilst questions still remained on whether appropriate steps had been taken in response to the 2018 DRR vote. Playtech's shareholders were opposed to the salary and annual bonus awards when compared to the performance of the share price of the company.
- The low vote at BCA Marketplace of 61% votes in favour was due to concerns of above inflation salary increases provided to Executive Directors for FY2020. The Executive Chair/CEO and CFO were set to receive increases of 23.8% and 21.8% respectively. BCA Marketplace has since been acquired by TDR Capital.
- At ConvaTec only 62% of shareholders voted in favour of the DRR where there was an increase of LTIP award from 175% to 250% of salary for the CFO as well as the combined salary and variable pay opportunity of 450% for the new CEO.

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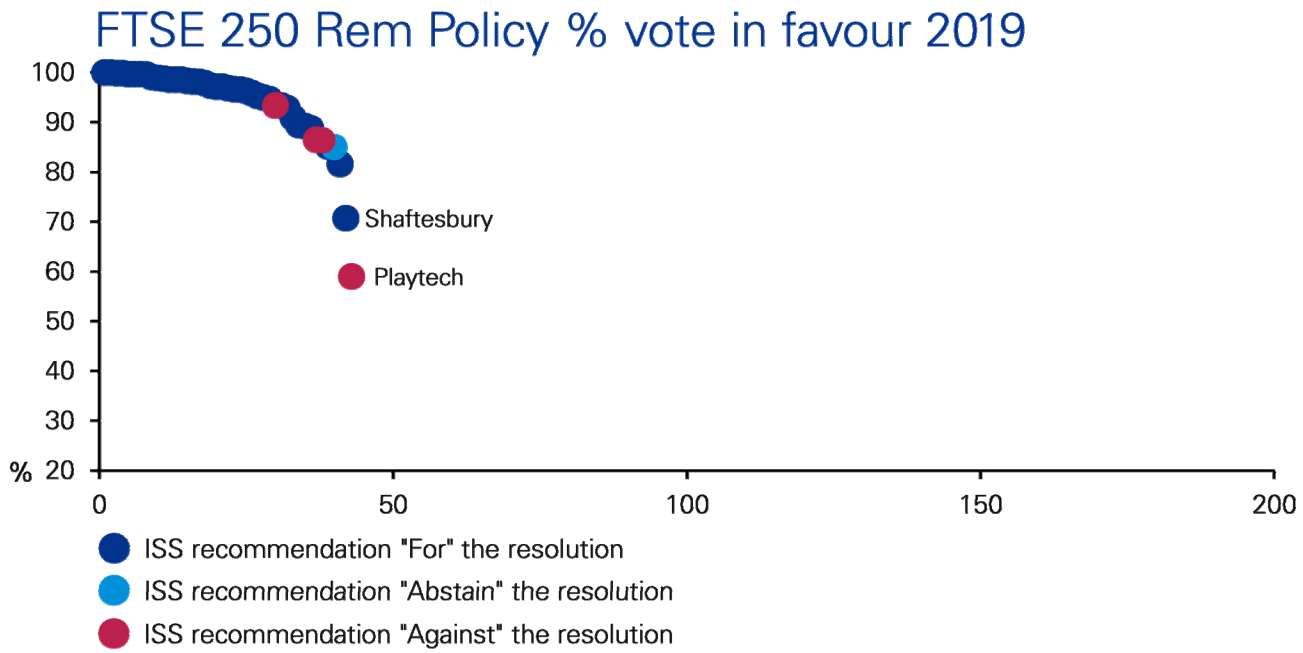
FTSE 250 Rem Policy

Of the 188 FTSE 250 companies (ex-Investment Trusts) to hold their AGM in 2019 and publish their DRR voting outcome, 43 also put their Remuneration Policy to a vote.

Once again, the chart distinguishes companies that received a positive voting recommendation from Institutional Shareholder Service (ISS) – blue dot, an ISS recommendation that shareholders vote against DRR resolution – red dot and those where ISS recommended that shareholders abstain – light blue dot.



Source: KPMG Makinson Cowell analysis, ISS

- Of the 43 FTSE 250 companies to have put their Remuneration Policy to the vote in 2019, two have received less than 80% support from shareholders.
- The proposed Playtech Remuneration Policy was approved with 59% shareholder support. Concerns focused on the potential quantum of the CEO's pay, and also the perceived lack of clarity in how the new policy will address previous issues that have arisen when seeking shareholder approval of the DRR.
- At Shaftesbury 71% of shareholders voted in favour of the new policy, when it was reported that Samuel Tak Lee, owner of 26% of the shares, rejected the proposed directors remuneration packages.
- In addition to Playtech, ISS recommended that shareholders vote against the Remuneration Policy at three other FTSE 250 companies in 2019: Aston Martin Lagonda, which in the event received 93% support from shareholders, whilst Telecom Plus and Hilton Food Group both received shareholder support of 86%.

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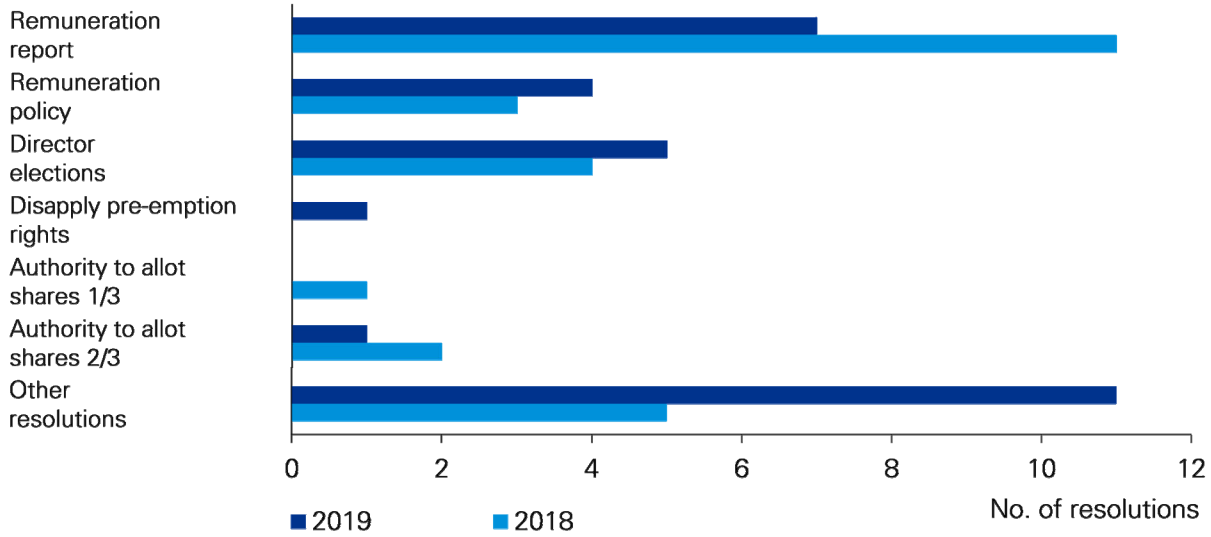
FTSE 100 resolutions

The next two pages consider the 2019 and 2018 AGM seasons in terms of the number of all resolutions receiving less than 80% support.

As with all the data in this review, the analysis considers votes in favour of each resolution as a proportion of votes for and against. Shareholders that dissent on a particular resolution by abstention or a vote withheld is not a vote in law and thus not counted in the calculation of votes in favour.

Resolutions across the FTSE 100 in 2019 included six shareholder resolutions for five companies that were not supported by management. All six resolutions were defeated.

FTSE 100 resolutions <80% support 2018 & 2019



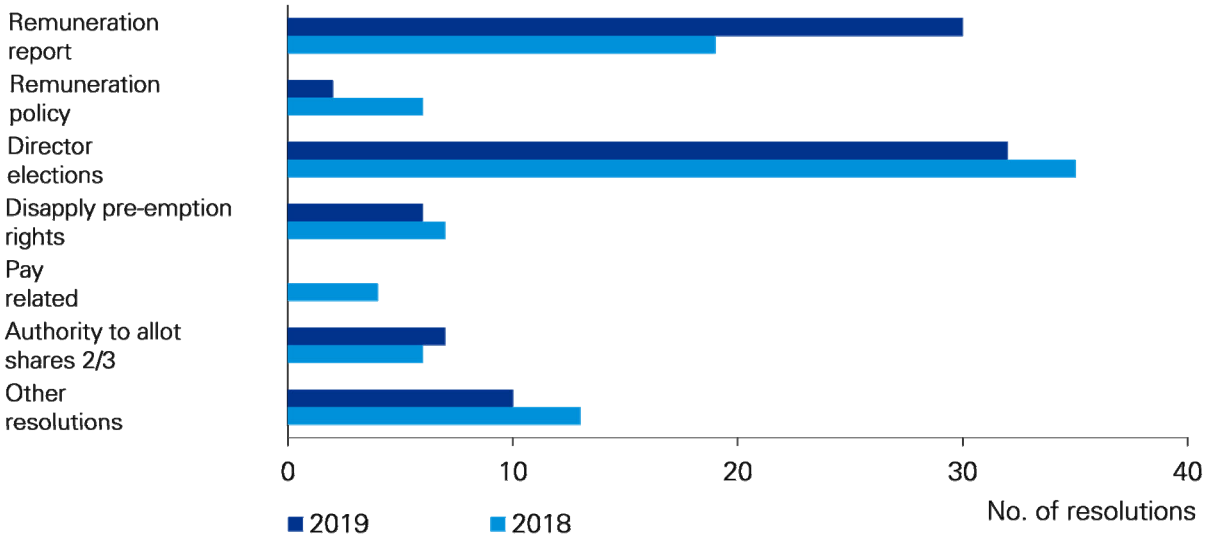
Source: KPMG Makinson Cowell analysis

- Earlier in our report we highlighted seven FTSE 100 companies in 2019 received less than 80% on the DRR which compares to 11 in 2018. Four FTSE 100 companies received less than 80% support for the Rem Policy vote, slightly above the level of dissent seen in 2018.
- As to resolutions to re-appoint directors we have seen five directors receiving less than 80% support in 2019, moderately higher than the level seen in 2018. In addition four director re-elections were withdrawn ahead of their respective AGM's.
- Overboarding, where shareholders may consider a director to hold too many appointments, continues to be the main reason for FTSE 100 directors to receive less than 80% votes in 2019. This was the case for Adrian Li at The Berkeley Group, Stephen Davidson at Informa, Christel Bories at Smurfit Kappa and Ireena Vittal at Compass, who were re-elected with 54%, 64%, 66% and 78% support respectively.
- At Anglo American, Marcelo Bastos, who was a appointed in March received 74% of shareholder votes in favour when major shareholder Anil Agarwal's private family trust, Volcan Investments, voted against his re-election, calling on the company's focus to be on South Africa and that the company did not have enough South African directors on its Board.
- The other resolutions category includes four pay linked resolutions. At Ocado, the resolution to approve the Value Creation Plan and the amendment to the Chairman's share matching plan received votes in favour of 76% and 77% respectively, whilst both Ferguson and The Berkeley Group sought shareholder approval to amend their LTIP's, receiving votes in favour of 72% and 58% respectively.

FTSE 250 resolutions

This page considers the number of AGM resolutions receiving less than 80% support at FTSE 250 companies in 2019 and 2018.

FTSE 250 resolutions <80% support 2018 & 2019



Source: KPMG Makinson Cowell analysis

- A total of 32 Director elections received less than 80% support in 2019, moderately lower when compared to the overall total of 35 in 2018. In addition six director re-elections were withdrawn ahead of their respective AGM's. Five companies had multiple directors receiving less than 80% shareholder support.
- At Mitchells & Butlers, Chairman Bob Ivell received 79% shareholder votes in favour with concerns that the composition of the board and key sub-committee's failed to meet UK Corporate Governance Code recommendations, an additional four directors received less than 80% support with concerns about them not being sufficiently independent. At Shaftesbury, three directors received 71% support when Samuel Tak Lee, owner of 26% of the shares, opposed the re-elections of Brian Bickell (CEO), Christopher Ward (FD) and Jonathan Nicholls (Chairman) in connection with the company's plans to disapply pre-emption rights when issuing share capital.
- Metro Bank received less than 80% support for three director re-elections, Eugine Lockhart and Stuart Bernau both received 72% votes in favour relating to an adjustment of risk weighted assets which is now being investigated by the FCA. ISS recommended shareholders to abstain to recognise that the investigation is ongoing, whilst Monique Melis received 79% of votes in favour as a member of the Risk Oversight Committee. At FirstGroup, Imelda Walsh, Chair of the Remuneration Committee and James Winestock, FirstGroup's longest serving board member, received shareholder votes in favour of 60% and 63% respectively, both subsequently announced that they would step down from their roles. At Renishaw, controlling shareholders Sir David McMurtry, Executive Chairman and John Deer, Deputy Chairman, received votes in favour of 78% and 77% respectively after neither were willing to enter into a relationship agreement containing independence provisions as required by the listing rules.

KPMG MAKINSON COWELL

Contacts

Colin Watts
Director
colin.watts@makinson-cowell.co.uk

Stuart Ship
Associate
stuart.ship@makinson-cowell.co.uk

KPMG Makinson Cowell
15 Canada Square
London E14 5GL
Tel +44 (0)207 670 2500

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kpmg.com/uk/makinsoncowell