

CAD-02539

# Norton Rose

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18/GENERAL

11th February 1993

## BY HAND

The Secretary,  
Committee on the Financial Aspects  
of Corporate Governance,  
c/o The London Stock Exchange,  
London EC2N 1HP.

Ark

Dear Sir,

### The Financial Aspects of Corporate Governance Nomination Committees

Two related points on the Cadbury Report and the Code of Best Practice have recently come to my attention. I am writing to you so that they can be considered as and when the Code is amended. They both relate to Nomination Committees, and are:

- 1 Paragraph 4.30 of the Report (page 27) makes it clear that a nomination committee would have the responsibility of proposing to the board any new appointments, whether of executive or of non-executive directors. I have no difficulty with that proposition, which I believe to be the best approach. However, paragraph 2.4 of the Code says that non-executive directors should be selected through a formal process, and refers the reader to note 7, which says that it is regarded as good practice for a Nomination Committee to carry out the selection process. A reader of the Code who did not also read the Report (and from now onwards many readers of the Code will not have read the Report) might draw the conclusion that Nomination Committees are appropriate only in relation to non-executive directors, which I cannot think was what was intended.
- 2 In discussions recently with the Boards of two listed companies for which this firm acts, a consensus emerged that it would probably be more convenient if a Nomination Committee were appointed ad hoc, rather than be constituted as a standing committee. In the nature of things,

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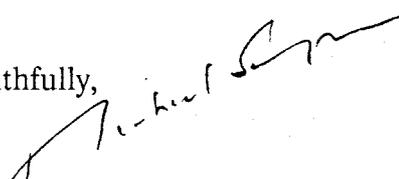
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11th February 1993

nominations whether of executive or non-executive directors are needed only intermittently, and a standing committee might suffer from the disadvantage that deaths or retirements which occurred between the time of appointment and the time of the committee's deliberations might result in the committee's membership becoming inappropriate. While it could be said that a decision on whether the committee should be ad hoc or standing is a matter for the discretion of the board, it might be as well if a future edition of the Code were to address the point, possibly by way of note which would make it clear that there would be no objection to Nomination Committees being appointed ad hoc.

Yours faithfully,



M.B. Sayers

17th February, 1993

Mrs. Gina Cole,  
Secretary,  
Committee on The Financial Aspects  
of Corporate Governance,  
21st Floor,  
London Stock Exchange,  
London EC2N 1HP

Dear Gina,

**Directors' Contracts**

I thought it might be helpful if I set out the query that has been raised by our own Secretarial Department in respect of the length of Directors' contracts.

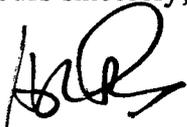
Paragraph 3.1 of the code of practice refers to Directors' service contracts not exceeding three years without shareholders' approval. Paragraph 4.41 of the Report refers to "future" service contracts. The questions that have been raised are as follows:

1. Is shareholders' approval required for any existing contracts which exceed three years or does this only apply to new contracts? No.
2. Is the three years for a fixed period or on a rolling basis?

As the Code is meant to be self-standing it seems important that this point should be clarified. If the Companies Act is to be amended, as has been recommended, the amendment will no doubt be specific but as this is likely to take some time it would be helpful if some guidance could now be given - unless of course we allow the current flexibility to evolve into what eventually becomes accepted practice.

This might be an issue that could be raised at our meeting on the 3rd March.

Yours sincerely,



AKK  
23/2

In reply please quote CIG/LCW/S0002.103

Your reference

Date 22nd February 1993

**DUNDAS  
&  
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Dear Ms Cole

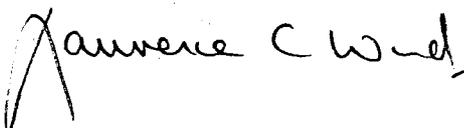
Cadbury Report

I understand that all queries in relation to the Cadbury Report should be addressed to you from 1st January 1993 onwards.

I refer you to paragraph 4.18 of the Cadbury Report regarding independent professional advice. I should be grateful if you would let me know whether either The Stock Exchange or, so far as you are aware, any other relevant bodies, have addressed this matter and, in particular, whether it is proposed to issue a style of procedure which should be adopted by listed companies to implement this recommendation, or guidance in this regard. If not, please let me know if you are aware whether any listed companies have implemented this recommendation and, in particular, the manner in which the recommendation has been implemented, whether by incorporation of a provision into the Articles or by way of a board resolution or otherwise.

If you have any queries please contact Carole Grieve.

Yours sincerely

  
Laurence C Ward

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