UK Corporate Governance

Key features

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Governance framework

National law

- Directors' duties
- Some reporting requirements

Financial Conduct Authority (FCA)

- Listing Rules
- Financial services governance rules
- Conduct of business rules (for investors)

Financial Reporting Council

- UK Corporate Governance Code (listed companies)
- Wates Principles (large private companies)
- UK Stewardship Code (investors)

There are also other codes and good practice principles, for example for smaller private companies, charities, education sector etc

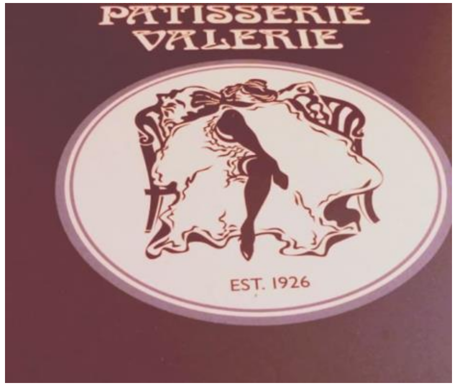
Key characteristics

- Directors' duties are to the members of the company (i.e. the shareholders), not to the company itself.
- Relatively little prescription in the law about governance structures (but plenty about reporting)
- Single tier boards, most with separate Chair and CEO.
- Strong presence of independent directors.
- Annual re-election of directors.
- No diversity quotas, but voluntary targets and public reporting.
- No legal requirements for workforce representatives at board level.
- Significant focus on directors' pay.
- Investors encouraged to engage with investee companies.
- Few controlling shareholders in listed companies.
- High levels of foreign ownership on the London market – over 50%.

How well is it going?

carillion

Making tomorrow a better place



Two recent case studies: BHS and Carillion

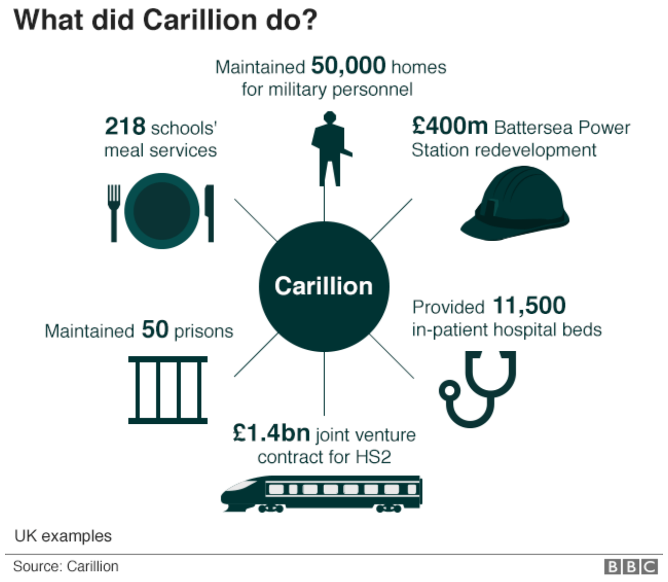
Sir
Phillip
Green

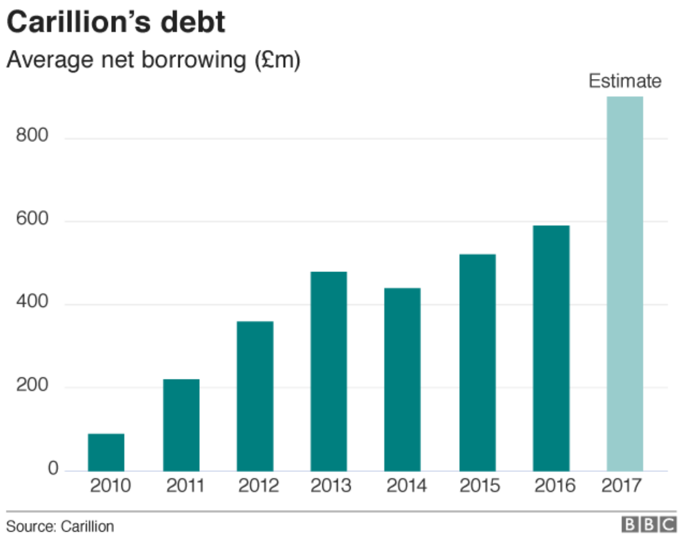
Dominic
Chappell

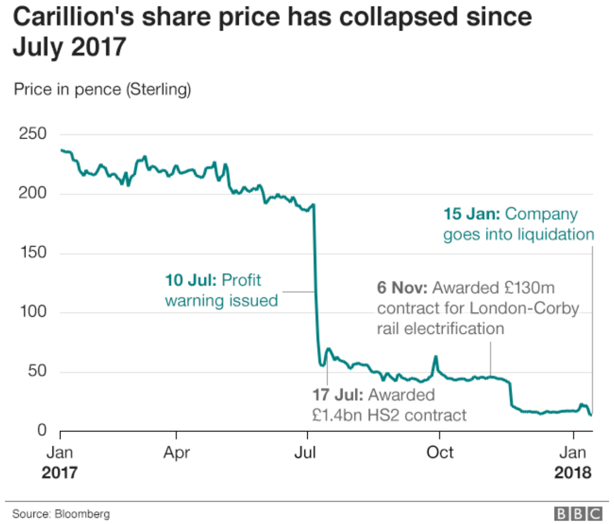
Lord Grabiner

The collapse of BHS – lessons from the 2016 Parliamentary Report

- “In his early years of ownership of BHS, Sir Philip Green cut costs, sold assets and paid substantial dividends offshore to the ultimate benefit of his wife…There is no evidence of improved turnover, market share, or major increase in investment that might be expected from a leading retailer.
- BHS was involved in a number of transactions with a complex web of companies, many registered offshore: whether BHS benefited financially from these transactions is far from clear. What is clear is that the Green family did.
- The complacent performance of Lord Grabiner as the non-executive Chairman of the Taveta group boards represented the apogee of weak corporate governance. It was his responsibility to provide independent challenge and oversight. Instead he was content to provide a veneer of establishment credibility to the group while happily disengaging from the key decisions he had a responsibility to scrutinise.
- The sale of BHS to a consortium led by a twice-bankrupt chancer with no retail experience should never have gone ahead; and this was obvious at the time. The reason it did, however, was Sir Philip Green. He was determined to get the deal done, no matter that the buyer could not deliver what BHS needed.”


What did Carillion do?
Maintained 50,000 homes for military personnel
218 schools' meal services
£400m Battersea Power Station redevelopment
Carillion
Maintained 50 prisons
Provided 11,500 in-patient hospital beds
£1.4bn joint venture contract for HS2
UK examples
Source: Carillion
BBC


Carillion's debt
Average net borrowing (£m)
Estimate
800
600
400
200
0
2010
2011
2012
2013
2014
2015
2016
2017
Source: Carillion
BBC


Carillion's share price has collapsed since July 2017
Price in pence (Sterling)
250
200
150
100
50
0
15 Jan: Company goes into liquidation
10 Jul: Profit warning issued
6 Nov: Awarded £130m contract for London-Corby rail electrification
17 Jul: Awarded £1.4bn HS2 contract
Jan 2017
Apr
Jul
Oct
Jan 2018
Source: Bloomberg
BBC


carillion
Making tomorrow a better place


EMMA MERCER
RICHARD HOWSON

The collapse of Carillion – lessons from the 2018 Parliamentary Report

- “Carillion’s rise and spectacular fall was a story of recklessness, hubris and greed.
- Carillion’s board are both responsible and culpable for the company’s failure.
- The company’s non-executive directors failed to scrutinise or challenge reckless executives.
- Carillion’s accounts were systematically manipulated to make optimistic assessments of revenue, in defiance of internal controls.
- Despite being signatories of the Prompt Payment Code, Carillion treated suppliers with contempt, enforcing standard payment terms of 120 days.
- KMPG was paid £29 million to act as Carillion’s auditor for 19 years. It did not once qualify its audit opinion, complacently signing off the directors’ increasingly fantastical figures.
- The key regulators, the Financial Reporting Council (FRC) and the Pensions Regulator (TPR), were united in their feebleness and timidity. The FRC identified concerns in the Carillion accounts in 2015 but failed to follow them up. TPR threatened on seven occasions to use a power to enforce pension contributions that it has never used.”

Recent developments

- More emphasis on the boards' responsibilities to all stakeholders not just to shareholders – including but not limited to the workforce.
- Corporate culture and 'fairness' – e.g. public reporting on gender pay gap, CEO: workforce pay and pension contributions. Has contributed to greater involvement of the board in workforce issues previously left to management.
- Stewardship Code for investors more explicitly linked to ESG issues, reflecting client and public expectations on investors.
- Mandatory climate change (TCFD) reporting for listed and large private companies from 2022.
- Large private companies are now required by law to report publicly on their governance arrangements.
- Regulatory trend for increased personal responsibility for directors (as well as the collective responsibility of the board).
- Post-Brexit repositioning of the London market

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Integrity and **Enterprise** are our core values.

The objects of the institute are:

To promote for the public benefit high levels of skill, knowledge, professional competence and integrity on the part of directors, and equivalent office holders however described, of companies and other organisations.

To promote the study, research and development of the law and practice of Corporate Governance, and to publish, disseminate or otherwise make available the useful results of such study or research.

To represent the interests of members and of the business community to government and in the public arena, and to encourage and foster a climate favourable to entrepreneurial activity and wealth creation.

To advance the interests of members of the Institute, and to provide facilities, services and benefits for them.

Thank you!

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