

Chapter 19

Corporate Transparency

Here, basic guidance to the end-of-chapter questions will be provided.

1. Define the following terms:

- **accounting reference date;**
- **accounting reference period;**
- **financial year;**
- **group accounts;**
- **annual reports**
- **auditor;**
- **liability limitation agreement;**
- **maximum engagement period;**
- **confirmation statement.**

Term	Definition
accounting reference date	Normally, the last day of the month on which the anniversary of the company falls
accounting reference period	A company's first accounting reference period begins on the date of its incorporation and ends on its accounting reference date. Subsequent accounting reference periods are periods of twelve months beginning the day after the company's accounting reference date
financial year	A company's financial year begins on the day of its first accounting reference period and ends with the last day of that period, or some other date not more than seven days before or after that period, as the directors may determine. Subsequent financial years begin on the day following the end of the previous financial year, and end on the last day of its next accounting reference period, or some other date not more than seven days before or after that period, as the directors may determine
group accounts	Annual accounts that provide consolidated financial information on a parent company and its subsidiaries
annual reports	A company's annual reports consist of the strategic report, the directors' report, and the auditor's report. In addition, quoted companies must also prepare a directors' remuneration report
auditor	A person appointed by the company to determine if, in his opinion, the annual accounts have been prepared in accordance with the law and give a true and fair view of the company's finances
liability limitation agreement	An agreement between an auditor and the company that purports to limit the amount of liability owed to a company by an auditor in respect of any negligence, default, breach of duty or breach of trust occurring in the course of auditing a company's

	accounts of which the auditor may be guilty in relation to the company
maximum engagement period	The maximum period of time that an auditor may audit a company's annual accounts for before that auditor must be replaced
confirmation statement	A statement confirming that all the information required to be delivered to Companies House in the relevant confirmation period has been delivered or is being delivered alongside the confirmation statement

2. State whether each of the following statements is true or false and, if false, explain why:

- **Companies House does not owe a duty to third parties as regards the accuracy of information on its register;**
- **companies can, instead of keeping their own registers, elect to keep the required information on the public register at Companies House;**
- **all companies must keep adequate accounting records;**
- **all companies must prepare a strategic report for each financial year;**
- **only quoted companies must prepare a directors' remuneration report;**
- **a public company must table a resolution at its AGM to receive the reports and accounts;**
- **all companies must appoint an auditor for each financial year;**
- **a listed company must change its auditor at least every ten years.**

- **Companies House does not owe a duty to third parties as regards the accuracy of information on its register:** This statement is true.
- **Companies can, instead of keeping their own registers, elect to keep the required information on the public register at Companies House:** This statement is false. Only private companies can elect to keep specified information on the public register at Companies House.
- **All companies must keep adequate accounting records:** This statement is true.
- **All companies must prepare a strategic report for each financial year:** This statement is false. Certain companies (e.g. small companies) are not required to prepare a strategic report.
- **Only quoted companies must prepare a directors' remuneration report:** This statement is true.
- **A public company must table a resolution at its AGM to receive the reports and accounts:** This statement is false. All the CA 2006 requires is that public companies must lay their accounts before the general meeting – the Act does not state what laying the accounts before the meeting involves.
- **All companies must appoint an auditor for each financial year:** This statement is false. Certain companies (e.g. small companies) are not required to have their accounts audited and so do not need to appoint an auditor.
- **A listed company must change its auditor at least every ten years:** This statement is false. UK law allows a company to retain an auditor for up to 20 years, providing that a

qualifying selection procedure (e.g. a competitive tender) is engaged in after at least ten years.

3. Discuss the importance and effectiveness of disclosure as a tool of corporate accountability.

Introduction

- Every essay should begin with a succinct introduction that demonstrates that you understand the essay question. Briefly explain what the essay is about and set out what the essay will discuss and how it will be structured.
- This essay requires you discuss why disclosure is so important and how effective the UK's disclosure regime is.

The importance of disclosure

- Discuss why corporate disclosure is so important. This is discussed at 19.1, here several reasons for disclosure are identified.
- Disclosure provide various stakeholders with information that allows them to decide whether to transact with the company (e.g. shareholders when buying shares, creditors when lending money etc).
- Companies, knowing that certain information must be disclosed, may be discouraged from engaging in unlawful or unmeritorious conduct.
- Having access to reliable information allows members to better undertake their role as corporate stewards. Without access to this information, it would be difficult, if not impossible, for the members to hold the company and its directors to account.
- The public disclosure of information allows markets to operate more accurately, notably it allows for shares to be priced accurately. As a result, it becomes less likely that false information will be placed into the public arena.
- A company that respects the value of transparency could see its reputation enhanced.

The effectiveness of disclosure

- XXX
- In order to discuss the effectiveness of our disclosure regime, it is important to understand the purpose of requiring companies to disclose specified information. Indeed, you may decide (as I do below) that structuring the essay around these purposes is the best way to discuss the topic.

Information should be accessible

- The information should be easy to obtain. If this information required is difficult to obtain, it will discourage interested parties from seeking to obtain it. In many cases (especially in larger companies), companies are required to make the information publicly available (e.g. by placing it on their website), and so the information is easily obtainable.

- Most information that companies file with companies is freely available online via the Companies House Service.
- Information is more easily obtainable than it has ever been. However, it is not enough that the information is easy to obtain – it must also be understandable once it has been obtained. Stakeholders cannot act on information they do not understand.
- This is where issues can arise. As discussed at 19.1, there are concerns that certain forms of corporate reporting are very complex (e.g. remuneration reports).

Information should be concise

- Stakeholders may be discouraged from engaging with corporate information if it is too detailed or lengthy. A good example of this is the annual reports and accounts of larger companies. As noted at 19.3, annual accounts and reports are longer than ever. Between 2012 and 2018, the average length of a FTSE 350 company’s annual report increased from 148 to 190 pages in length (with some companies being much longer).
- Companies should aim to keep disclosures concise. However, they can only do this if the reporting requirements are not unduly complex or burdensome. This leads us onto the next point.

Disclosure should not be unduly complex or burdensome

- When discussing disclosure, we tend to focus on those who use the information disclosed, but it is also important to bear in mind those who disclose the information. The disclosure obligations placed upon companies should not be unduly complex or burdensome, especially for smaller companies.
- If the disclosure obligations are too complex, companies may struggle to engage with them, leading to sub-standard reporting. As noted at 19.3, the FRC has had to write to a notable number of companies to warn them over the quality of their reporting.
- Complex disclosure obligations can be burdensome on a company, as the company will need to devote time and resources to complying with the disclosure obligations.
- These concerns are greater for smaller companies. Larger companies can employ others to advise on disclosure compliance, but smaller companies might not be able to afford such advice.

Conclusion

- Every essay should end with a conclusion. Briefly summarise the main points/arguments and, if possible, come to a conclusion regarding the essay topic (i.e. which of the opposing views has the stronger arguments).

4. Dragon Products Ltd ('DP') was incorporated in January 2018. At the end of 2018, the company had a turnover of £9 million and a balance sheet total of £4.5 million. You are the company secretary of DP, whose directors ask you to explain the following:

- **What statutory registers must the company maintain?**
- **Do the directors of DP need to prepare full annual accounts and what period**

must these accounts cover?

- **What annual reports will DP need to provide?**
- **Explain DP's obligations regarding circulation and filing of the annual accounts and reports.**
- **Does DP need to appoint an auditor and have its accounts audited?**
- **Does DP need to appoint an audit committee?**
- **Explain to DP its obligations relating to the delivery of a confirmation statement.**

- An important point to not at the outset is that DP is a private company and is also a small company. This will have a notable effect upon the legal obligations it is required to comply with.

Statutory registers

- Table 19.1 sets out the rules relating to statutory registers. The registers that DP will need to maintain are:
 1. the register of members
 2. the register of directors;
 3. the register of directors' residential addresses;
 4. the register of secretaries (if DP has a company secretary), and;
 5. the register of persons with significant control (if it has any PSCs).
- However, as DP is a private company, it can elect to either keep these registers itself or it can elect to have the information contained in these registers kept on the public register at Companies House. DP can therefore choose to:
 - (a) maintain all the registers itself
 - (b) have all the information on these registers kept on the public register instead, or;
 - (c) keep certain registers itself and have others kept on the public register at Companies House.

Annual accounts

- Small companies are generally required to prepare full accounts, but can instead prepare abridged accounts if all the members so consent. Abridged accounts contain less information than full accounts.
- The accounts must be prepared for each financial year. Based on the information provided, the company's first financial year would have started on the date of its incorporation and ended on the 31 January 2019. Subsequent financial years would start on the 1 February and end on the 31 January.

Annual reports

- As DP is a small company, the annual reports it will be required to prepare are a directors' report and, if its accounts are required to be audited (discussed below), then an auditor's report.

- It would not need to prepare a strategic report as small companies are exempt from this obligation, and it would not need to prepare a remuneration report as it is not a quoted company.
- DP would need to send copies of its accounts and reports to every member, debenture holder, and every person who is entitled to receive notice of general meetings. This could be by hard copy or electronically.
- Companies are generally obliged to file copies of the annual accounts and reports with Companies House. However, as DP is a small company, it will not need to file its directors' report.

The auditor

- The general rule is that every company is required to appoint an auditor for each financial year. However, a company will not need to appoint an auditor if the directors reasonably resolve that audited accounts are unlikely to be required. This would apply here as small companies are not required to have their accounts audited. Accordingly, DP would not be obliged to appoint an auditor.
- DP does not need to appoint an audit committee, as the obligation to appoint an audit committee is only placed upon public interest entities.

Confirmation statement

- Every company is required to deliver a confirmation statement to Companies House within the confirmation period. Set out what a confirmation statement is (see 19.5.1).
- There is no exception for private companies or small companies, so DP would need to deliver a confirmation statement.