

# The Takeover Panel

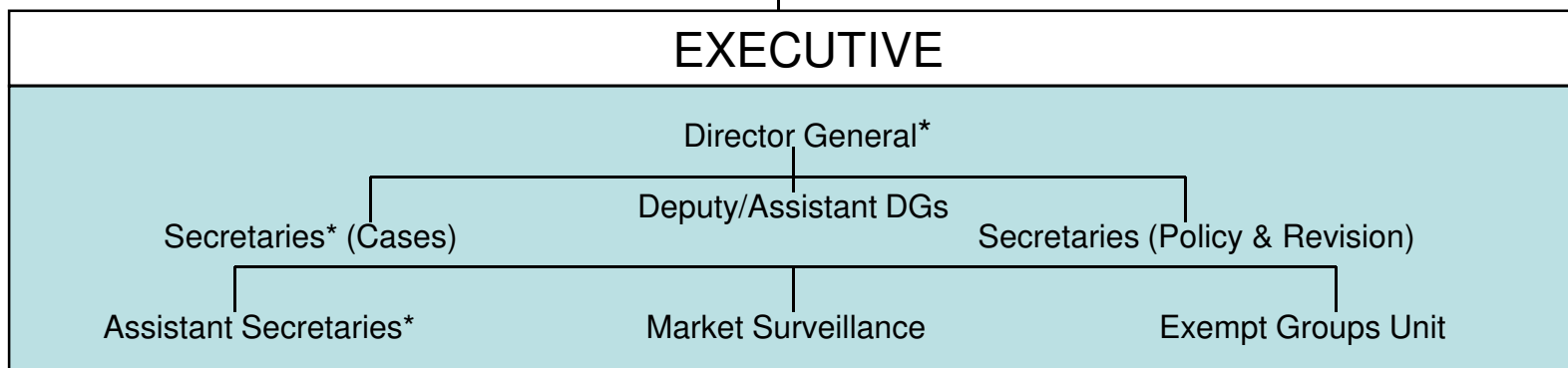
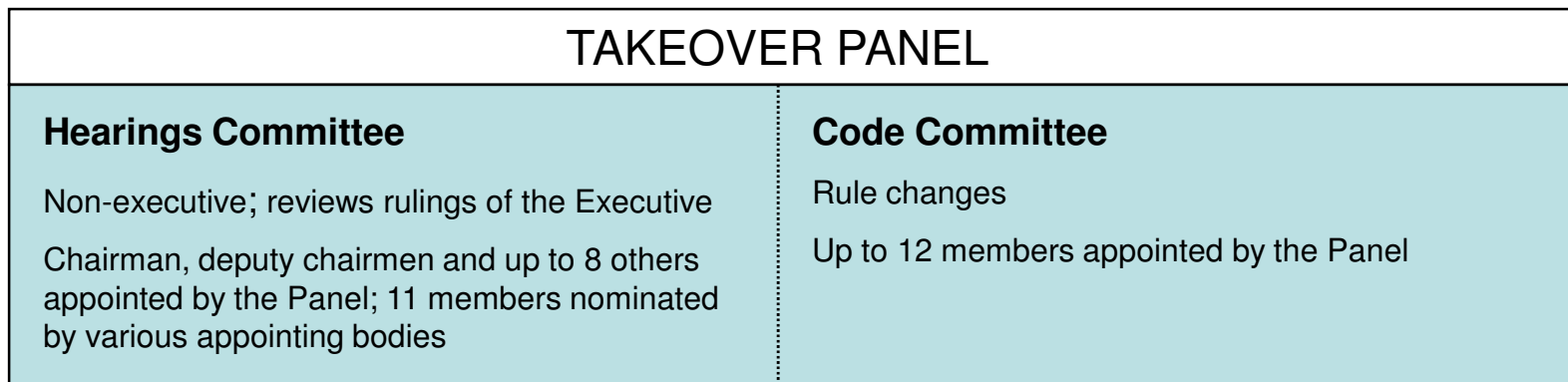
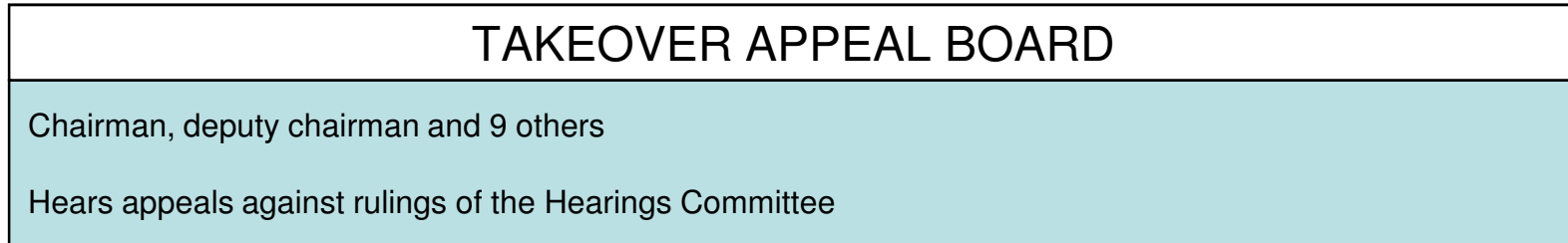


Robert Hingley, Director General  
20 January 2009

# What is the Takeover Panel?

- Founded in 1968
- Unincorporated association
- Members appointed by:
  - Nominating bodies
  - The Panel itself
- Nominated by Secretary of State as ‘supervisory authority’ for takeovers

# How are we organised?



\* Seconded from investment banks, law firms, accountancy firms and brokers

# Regulatory Philosophy

- Six general principles
  1. equivalent treatment
  2. offeree shareholders to have sufficient time and information to make properly informed decision
  3. offeree board must act in interests of company as a whole – no frustrating action
  4. avoid false markets
  5. offeror must ensure consideration fulfilled
  6. avoid undue siege
- Free and liquid markets in investors' interests
- Transparency essential safeguard

# Key features

- Independent
  - rule-making; decision-making; funding; membership
- Principles-based and hence flexible
- Speed and certainty
  - subject to appeals, decisions ‘stick’; no legal challenge
  - internal appeals procedures quick and efficient
- Consensual approach
  - commitment of members and practitioners

# Why does it work?

- Principles-based, not 'black letter'
- Close to market – ability to react to changes swiftly
- Commercial/pragmatic
- Consistent
- Speed



High degree of market support  
London a good place to do business

# Comparison with other jurisdictions

## US

- Bids generally less well-regulated/less shareholder friendly
  - shareholder equality/mandatory bids
  - frustrating action
  - no mirror of Rule 2
  - less extensive disclosure of dealings and interests
  - firm statements less binding
  - advertisements
  - golden parachutes
- ‘Black letter’ approach restricts coverage, efficiency, speed

# Comparison with other jurisdictions

## EU

- Takeover Directive based on UK Code – but pale shadow
- 18 years of gestation – many compromises
- Minimum standards – less protection
- Specific weaknesses include
  - mandatory bid rules
  - concert parties/burden of proof
  - dealing disclosures
- Overall:
  - little harmonization
  - level of shareholder protection weak

# Future developments

- Regulatory review post credit crunch. Importance unquestioned, but risks of
  - excessive ‘backlash’
  - solving yesterday’s problems
- Globalisation
- EU regulation
  - review of Takeover Directive in 2011
- Panel approach not necessarily appropriate for all areas, but
  - Wigley highlighted
    - risks of over-prescription (particularly EU)
    - need to remain close to market (‘grey panthers’)
  - Panel has generally ‘got these right’