



Research Report

Sustainability and the Commissioning of Legal Services

An Executive Summary



November 2017

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The Legal Sustainability Commission¹ (“LSA”) commissioned the University of Birmingham² to carry out a report to understand the extent to which sustainability and corporate social responsibility (“CSR”) are matters of interest for clients in choosing the law firms that they instruct, and in the requirements for law firm selection. The driver for this research came from the LSA’s Board, which found anecdotal evidence that the sustainability and CSR records of law firms were becoming significant factors for clients in deciding on whether to instruct a particular law firm.

The conclusions made by this report now follow.

Huge investment in Sustainability/CSR

All interviewees of traditional law firms³ recognised that their law firms invested heavily in CSR. Environmental investment most often took the form of carbon and waste reduction measures. There was also a trend for firms to aspire or attain ISO 14001 accreditation.

“We have one person full-time working within our Premises and Operations team whose responsibility is looking after our environmental initiatives and environmental reporting, and she is supported by various other people in other parts of the department, so we have people in Technology and Engineering who also have specific responsibility for addressing energy use and energy reduction initiatives.”

When asked about sustainability/“CSR” initiatives, interviewees always mentioned pro bono legal advice and community volunteering as top of their list:

“...employees, they’re allowed two days per year for volunteer work, and encouraged to take it. We also have the Head of CSR, we’ve got the pro bono work as well, in addition to the volunteer days. And then there’s also a pot of money allowed for the whole firm for sponsorship or charitable giving as well as what people can raise to kind of fund different causes I guess.”

“...everyone in the firm is entitled to have 2 days a year off unpaid leave to do something that has a community element to it.”

It was difficult to understand the total amount of investment made in sustainability/CSR initiatives but it would seem that law firms are contributing tens of millions of pounds to social and charitable programmes in free services including free legal advice, volunteering and in direct giving or facilitating cash donations.

“We have a global headcount I think focused specifically on CSR and pro bono of about 15.”

The investment of such eye watering figures raises many questions, as law firms are commercial enterprises providing legal advice to clients and working in a highly competitive environment. CSR and sustainability investment is an investment in society and the planet, but what is the real motivation when looking at law firm’s relationship with existing or potential clients? Is it to fill a giving gap in society, or to work with clients through shared values, or is it just part of our make up as a profession regulated by principles of integrity and a belief in justice?

¹ Appendix – info on the LSA.

² Professor Robert Lee of the Law School, University of Birmingham, led this project. See <https://www.birmingham.ac.uk/schools/law/staff/profile.aspx?ReferenceId=82744> for a short bio. Dr Steven Vaughan worked on the project while at Birmingham Law School: see now <https://www.laws.ucl.ac.uk/people/steven-vaughan/> Begonia Filgueira was the researcher for the project. See for a short bio - <http://www.ericgroup.co.uk/author/begonia-filgueira>

³ Barristers and solicitors working together under the model of barristers’ chambers did acknowledge a lack of investment in CSR due to a lack of pooled resources.

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Even if it is any or all of these, following this study, the LSA in a very good position do more work in the future to create a sustainability/CSR tool or model in order to find out what the actual contribution amounts to.

“...in addition to the financial budgets that the CR team has, all our fee earners can record up to 50 hours of CR related activities and they actually count towards their chargeable hours' target.”

Sharing values has a positive effect on client capture

All law firms interviewed believed that they were commercial enterprises providing legal services to their clients and that through their CSR initiatives they were portraying their values. All agreed that they did not directly and consciously participate in CSR initiatives to gain clients but all thought that it had a positive effect:

“Clients are looking not only for the expertise, but also for someone who shares their values.”

Some thought it helped create or cement relationships with clients, or enhanced their reputation, gave them an edge over the competition, helped them acquire new skills or helped attract employees. Others went further and thought that corporate clients were driven internally by their own CSR objectives and regulatory requirements, and needed alignment in values with their law firms:

“... that they are not allowed, by their own policies, to operate with firms and other clients who don't follow the same agenda. So, I think a lot of it is because there's such a massive increase in the amount of general transparency rules that are coming out.”

There was even a hint that CSR was part of the commercial arm of the legal business as CSR managers had just started to be asked to attend selected client pitches:

“... I think sometimes people see CSR, environment, sustainability, diversity and inclusion, as separate to the commercial arm of the business, my view is very strongly that they are interlinked”.

Some saw a direct benefit in gaining further expertise through their CSR initiatives, which they then used to advise or provides services to clients.

Clients ask lawyers for Environmental and CSR information when pitching

There was no question that there is a growing trend for clients to ask law firms about their own CSR programmes when tendering or pitching for work:

“I've been here for six years and I've definitely noticed an increase in the amount of questions that clients ask within this area.”

All law firms had been asked at some point about their environmental policies, but, on the whole, client's questions have moved away from the tick box type of question such as: “Do you have an environmental policy?”. There are a broader range of more specific subject areas within CSR and “granular” questions such as:

- ***“Are you ISO14001?”***
- ***“What is your CSR strategy and how do you meet your goals?”***
- ***“Do you have a Modern Slavery Act statement?”***
- ***“What is your Human Rights policy?”***

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Senior managers are involved in Environmental and CSR Decision making

Environmental and CSR decisions always had some involvement from senior management. Some sort of partner involvement was found across all sizes of firms. It could be that CSR policies flourish only where there is appropriate leadership, and/or that CSR is an investment (of time money and goodwill) so that like any other investment senior managers are involved.

Capturing CSR data but not analysing impact

Given the huge amount of investment that goes into CSR it is not surprising that most law firms record to some extent their investment in CSR.

Environmental data recording, impact analysis and reporting was quite sophisticated across most firms. Standards such as ISO 14001 and other useful tools provided by organisations such as the LSA have helped in promoting and developing data analysis. Firms were also good at capturing fee earners time spent on non-billable/CSR initiatives, although there was an expression of doubt of how accurate this was.

There was almost no consistent recording of what questions clients were asking when it came to environment or CSR in pitches or otherwise. Nor was there systematic tracking of: which clients had asked to participate in CSR initiatives; which clients were interested in particular CSR areas; or how many people and how much time had been allocated to participating in a specific client's CSR initiative.

Client CSR initiatives were on the whole led by the client partner who "knew" a client was interested in a particular area or fee earners who had established "*long term relationships*" with a particular client. Only one global firm had collected data in the form of case studies in a "*file*" with some data on partnerships with the clients including "*some data on hours and number of people and who's been involved*".

Conclusion

There is still much work to be done on this topic. This study is modest but it does start to scratch the surface of what law firms do when it comes to the environment and sustainability/CSR and why this matters when it comes to clients seeking legal services.

Law firms are commercial concerns but invest heavily in their environmental and sustainability/CSR programmes. There was evidence that environmental investment helped save money and there were tools out there that could empirically prove it, but there was little mention of this when it came to the sustainability/CSR agenda.

The sustainability/CSR space would benefit from a comprehensive analyse of how existing data is collected so that firms can understand and measure what impact CSR initiatives are having on gaining panel work, capturing new clients, building relationships, on reputation, on attracting employees and appraising them; and their values?

Is sustainability/CSR part of the operational model of a law firm given that tens of millions of pounds are invested in initiatives by law firms in the UK and globally each year? Should there be integrated reporting when it comes to financial and CSR matters?

Corporate business often looks for a return on investment (RoI) in CSR and such investments are increasingly regarded as intangible assets. It was not clear why law firms were not examining their RoI given the huge investment in CSR and the rise in environmental and CSR questions posed by clients when tendering.

What is lacking for law firms is a customised model that brings together a method of capturing data in a consistent way to analyse it along certain parameters specific to law firms. This study provides a platform on which this model could build and the LSA is in an excellent position to carry this forward.