



The Law Society

Corporate Social Responsibility
A view from the Law Society

International Unit
September 2002

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Introduction - What is Corporate Social Responsibility (CSR)?¹

Definitions of CSR

1. The European Commission in its 2001 Green Paper on Corporate Social Responsibility² suggested that the concept of CSR requires an enterprise to be accountable for its impact on all relevant stakeholders. To the Commission, CSR represents the commitment by firms to behave reasonably and responsibly and contribute to local economic development while improving the quality of life of its employees as well as of the local community. Moreover, the European Commissioner responsible for the Green Paper,³ has defined CSR as essentially about companies combining economic, social, environmental and human rights interests for the good of the company, workers, shareholders and society; a way of managing change and reconciling social development with improved competitiveness.
2. The definition of CSR in the US has traditionally been based on a philanthropic model; companies are allowed to make profits largely unhindered but are then expected to donate a certain percentage of the profits to charitable causes. In Europe, it is noticeable that the focus rests on operating the core business in a socially responsible way, complemented by investment in communities for solid business reasons.
3. Douglas Alexander, the former UK Minister for CSR⁴, observed that a company with a CSR policy appeared to pursue the following approach:
 - it recognises that its activities have a wide impact on society;
 - in response, it actively manages the economic, social, environmental and human rights impact of its global activities; and
 - it seeks to achieve these benefits by working closely with other groups and organisations.
4. The Corporation of London in its Policy Statement on CSR has observed that CSR concerns the recognition by business and other organisations, whether in

¹ CSR has also been referred to as Corporate Citizenship or just Corporate Responsibility.

² 'Promoting a European framework for corporate social responsibility', issued by the European Commission's Directorate for Employment and Social Affairs.

³ Anna Diamantopoulou, European Commissioner responsible for employment and social affairs. Please see Speech/01/581 given to the Belgian Presidency Conference on CSR in Brussels on 27/11/01.

⁴ Stephen Timms is now the current Minister for CSR.

the private or public sector, of their responsibilities to the society in which they operate.

5. It has been argued that, before progress can be made, a single reliable definition of CSR, which can replace the different meanings of the term which are currently in use, needs to be agreed. Although it does appear that there are different priorities and values in different countries which influence how CSR is defined, a common thread can be ascertained. CSR appears to mean minimising negative social, environmental and human rights impacts of corporate activities and influence while enhancing the benefits to society that companies can bring. In effect, CSR seems ultimately to be based on the need for corporate accountability and compliance with standards that reflect society's values generally, and the concerns of stakeholders in particular.
6. More recently, some companies are attempting to integrate CSR policies into standard risk management procedures as they take the view that CSR should become an essential part of all companies' priorities. Although arguably, motivations behind CSR policies and activities may be changing, these approaches can be fitted without difficulty into an approach based on shareholder value. The shift in emphasis to risk management is a potential trend, which has manifested itself not necessarily at the expense of community involvement.
7. The investment community's approach towards CSR appears to be particularly orientated towards risk management, as exemplified in guidelines issued at the end of last year by the Association of British Insurers (ABI).⁵ The ABI called on companies to assess and disclose social, ethical and environmental risks on the basis that a company can put its business at risk if it fails to respond appropriately to social, ethical and environmental matters.⁶ CSR Europe has stressed that "CSR is about integrating the issues of the workplace, human rights, the community and the marketplace into core business practices."⁷ In addition, the Business Impact Task Force⁸ found that one benefit of CSR to risk management was that companies were better able to control the risks associated with

⁵ The ABI is a trade association for Britain's insurance industry.

⁶ ABI: 'Investing in Social Responsibility: Risks and Opportunities' Report.

⁷ Corporate Social Responsibility – The European Business Campaign: <http://www.csreurope.org/CSRCampaign/what.htm>

⁸ The Business Impact Task Force was initiated by Business in the Community and chaired by Bill Cockburn, Group Managing Director of BT. It published its report '*Winning with Integrity*' in November 2000.

regulation, environment, consumer attitudes and finance. In regard to finance, the report recognised that different parts of the financial sector now 'seek out and expect good environmental practice', for example, 'underwriting decisions by insurance companies seeking to minimise environmental risk exposure' in accordance with the ABI Guidelines.

The two dimensions of CSR

8. CSR has two dimensions; the first is concerned with the internal policies of companies and the second is concerned with the external environment in which companies operate.

The internal dimension of CSR

9. The internal dimension comprises human capital, health and safety and restructuring. Companies influence employment through the quality of jobs they provide, through production, employee relations and investments. Therefore, internal CSR strategies need to be based on an integrated and balanced approach incorporating a comprehensive set of policies, practices and programs with regard to economic and social factors.

Employees and human resources

10. Companies often face huge challenges in attracting and retaining employees of quality. Suggestions to overcome these challenges include improving internal information networks, developing specific training programmes (local or otherwise), providing opportunities for apprenticeship, offering enhanced equal employment opportunities and remuneration packages for men and women.⁹ Better retention of employees often saves companies money through increased productivity and a reduction in recruitment costs. In addition, responsible non-

⁹ Boots plc, for example, has introduced both new programmes which involve staff more closely in decision-making and a new set of group values. The company has introduced a new cost-effective pension scheme and a new employee share scheme, which will give employees a tangible interest in the business. Some 66,000 UK staff have received an allocation of free shares, and a share-tracking scheme has been introduced for overseas staff. Further shares will be allocated annually on a performance-related basis. The Bank of Scotland has recently begun offering its staff six-year "career breaks" as part of a radical scheme to keep valued employees.

discriminatory recruitment practices are needed to encourage the recruitment of women, those from ethnic minorities, the long term unemployed, and older and disabled persons. Furthermore, as the City of London Corporation has noted,¹⁰ for many employees, the values of their organisation, including its CSR values and strategy, are important aspects of their relationship to their employer.

11. A national quality standard to be considered here is Investors in People (IiP) which aims at improving an organisation's performance through the training and development of its people to achieve business goals. The IiP standard provides a national framework for improving business performance and competitiveness, through a planned approach to setting and communicating business objectives and developing staff to meet these objectives. It may be worth considering whether attainment of this standard should be recognised as a CSR achievement in the area of employee welfare.
12. New European standards in this area are contained in the new Information and Consultation Directive (Icon)¹¹ which aims to “establish a general framework setting out minimum requirements for the right to information and consultation of employees in undertakings or establishments within the European Community”.¹² Icon advocates greater employee involvement and follows the current trend in encouraging more stakeholder participation.

Health and Safety

13. Issues regarding health and safety (H&S) at work, although currently addressed by abundant legislative and enforcement measures, can be tackled by complementary voluntary schemes in order to raise H&S standards in the workplace. It should be examined whether it is sufficient for companies to meet the minimum requirements without taking additional measures to complement existing legislation. Under current legislation, all companies must have a health and safety policy and keep health and safety records, although there is no explicit

¹⁰ Please see the City of London Corporation's Policy Statement on CSR. Website address: http://www.cityoflondon.gov.uk/about_us/consultation/pdf/csr_policy_draft.pdf.

¹¹ Official Journal of the European Communities, 23 March 2002.

¹² The implication of this for UK employers is that employees will have the legal right to be informed and consulted on the situation, structure and probable development of employment within the undertaking; measures envisaged that could pose a threat to employment and decisions likely to lead to substantial changes in work organisation and contractual arrangements.

requirement for companies to include health and safety matters in their Annual Reports.

14. The UK Government and the Health and Safety Commission (HSC) have launched a joint strategy statement 'Revitalising Health and Safety'¹³ which is designed to promote greater corporate responsibility for ensuring risks to workers' health and safety are properly controlled within their organisation. The top 350 UK companies have been called on to publish details of their health and safety policies, goals and performance in their annual reports commencing 2002.¹⁴ The HSC has published guidance in support of this initiative which sets out recommendations concerning coverage of health and safety reports.¹⁵ The publication of reports on health and safety activities and performance arguably demonstrates to all stakeholders the company's commitment to the effective management of health and safety. Even additional voluntary business schemes based on improved internal communication, thorough training and up to date policies are perhaps needed to demonstrate a full commitment to CSR in the realm of health and safety.

Company Restructuring

15. Company reorganisation has serious effects both on the workforce and other stakeholders. It seems, however, that restructuring operations can fail to achieve their objectives of reducing costs, increasing productivity and improving quality and customer service because of the damage caused to staff morale. Therefore, it appears necessary for responsible restructuring to take account of the interests and concerns of all of those affected by the restructuring process, for example, by safeguarding employees' rights, vocational retraining and ensuring the establishment of procedures for information-sharing, dialogue, co-operation and partnership. In addition, some have argued that, upon completion of a restructuring exercise, companies must continue to ensure the employability of their staff.

¹³ This strategy statement was published in June 2000 by the then Department of Transport and Local Government. More information can be found at <http://www.hse.gov.uk/revitalising/index.htm>.

¹⁴ This document is only a strategy document and, therefore, it remains within companies' discretion not including health and safety matters in their Annual Reports.

The external dimension of CSR

16. This second dimension of CSR involves: local communities, business partners, suppliers and consumers, human rights, and environmental concerns.

Local communities

17. A particularly important aspect of CSR is the relationship between companies and the local community in which they are based. Companies are often brought into contact with new societies and social structures, and are thus faced with very different expectations, for example, in the areas of health and safety, employment practices and environmental protection. Companies have an interest in operating in environments free from armed conflict or disease, where an educated and healthy workforce is available, where investments are not endangered by unstable institutions and corrupt regimes. Companies are ultimately dependant on the sustainable development¹⁶ of their hosts. While it is not companies' sole or primary responsibility to achieve this, it is important that they understand how their activities contribute to sustainable development and that they can act on that understanding.¹⁷

18. Furthermore, companies often recruit staff and obtain clients from the local community. Involvement in community projects can help strengthen ties between a company and the local population and this, together with the company's reputation as a local employer, may positively influence its competitiveness and help a smooth integration into the local community.

19. In addition, a corporation should have the courage to apply their own standards and philosophy and not necessarily those that fit within the social and cultural framework of the host country. It is arguable, however, that although this would promote good practice (e.g. in employment policies), it may also cause alienation and isolation and would possibly be viewed as an attack on a society's cultural values and beliefs. CSR codes should therefore balance the need for a coherent

¹⁵ Further information can be found at <http://www.hse.gov.uk/revitalising/annual.htm>.

¹⁶ Sustainable development involves examining the patterns of development so that future generations can live as well as or better than the present generation. Sustainable development includes examining the impact of current practices on the environment, natural resources, social development, poverty, inequality, education and training.

¹⁷ Ideas taken from 'Towards Global Corporate Social Responsibility' by Malcolm Keay, a Briefing Paper for The Royal Institute of International Affairs.

company philosophy with cultural differences which could ignite controversy, reputation damage and hostility.

Business partners, suppliers and consumers

20. It seems clear that the social performance of companies can affect and be affected by the social practices of their business partners, suppliers and consumers. For example, the City of London Corporation in its Policy Statement on CSR, has noted that some organisations are concerned with the CSR policies of their suppliers and their consistency with the key elements of their own CSR policies. The Confederation of British Industry (CBI) has, however, voiced its disapproval regarding the use of public procurement procedures to enforce policy initiatives. In its view, broader objectives, such as CSR, should be reflected in procurement practice only when limited to occasions where those objectives are directly relevant to the intended outputs of individual procurements.

Human Rights

21. CSR has a large human rights element, which the Organisation for Economic and Co-operative Development (OECD) Guidelines, the International Labour Organisation (ILO) standards and the United Nations Global Compact have recognised, especially in regard to multinational companies (these standards will be described in Chapter 5). The human rights issue involves complex political, legal and moral questions, for example, how companies identify where their areas of responsibility lie as distinct from those of governments and how they operate in countries where human rights abuses are widespread.

22. Under increasing pressure from NGOs and consumer groups, companies have increasingly begun to include human rights aspects into their CSR codes. Arguably, for codes of conduct to be most effective, they need to be based on a current international human rights model such as the UN Global Compact, and must be properly implemented and verified. The European Commission's Green Paper also observes that full disclosure of information, an ongoing developmental approach and a monitoring system are also needed to ensure the credibility of these codes of conduct.

Environmental issues

23. Companies with a global presence inevitably have effects on the environment, particularly with regard to their consumption of resources. As regards global environmental concerns, the European Commission's Green Paper suggests that companies can address these concerns by pursuing global CSR initiatives such as those contained in a recent Communication by the Commission,¹⁸ for example, reducing energy consumption. It is generally acknowledged that the increasing use of pollutants and natural resources in addition to increasing waste has directly damaged the environment. A reduction in such activities could make direct savings for companies in the form of reduced operating costs and energy and waste-disposal bills. For example, many initiatives aimed at reducing greenhouse gas emissions that contribute to global climate change also increase energy efficiency, reducing utility bills. In addition, recycling initiatives can cut waste-disposal costs and generate income via sales of recycled materials. The ISO14000 series of international environmental standards, developed by the International Organisation for Standardisation, provides a framework of general principles applicable to any organisation of any size in any industry. As suggested above with regard to the IIP kitemark, subscribers to this standard could be recognised as having covered this aspect of CSR.

The need for CSR in the Legal Field – the advantages and disadvantages of CSR

24. All English solicitors are bound by the minimum standards imposed by the Codes of Conduct of the IBA (International Bar Association) and the CCBE (Council of Bars and Law Societies of the European Union), the Law Society's Guide to Professional Conduct of Solicitors and the Solicitors' Overseas Practice Rules 1990. It can be argued, however, that information about CSR best practice could usefully complement these, promoting higher standards and resulting in an enhanced reputation for those who subscribe to them.

25. The aim of Law Society such information would be to encourage firms to make positive contributions to local economic, environmental and social progress and

¹⁸ European Commission's Communication 'Ten Years after Rio – Preparing for the World Summit on Sustainable Development' (COM (2001) 53).

thus minimise any difficulties encountered by these firms both at home and abroad. Following this best practice could perhaps help to increase the standing of a firm and (ideally) provide a measurable, comparable standard vis-à-vis the performance of other firms. In addition, expectations regarding a firm's behaviour will be clarified, resulting in a better reputation for participating firms and ultimately in attracting more/better clients and retaining more employees.

26. The Law Society's Lexcel Practice Management Standards are a similar example of how standards can improve a firm's standing, provide firms with a competitive advantage and improve marketability to prospective clients. These standards provide a guideline against which firms can measure the way they currently manage themselves as well as a checklist for planning improvements and developments. Lexcel neither prescribes detailed procedures and systems nor replicates the other requirements that solicitors remain subject to i.e. the general law, the Solicitors Practice Rules, Solicitors Accounts Rules, Investment Business Rules and The Guide to the Professional Conduct of Solicitors. As of June 2002, 226 practices have obtained the Lexcel quality mark.
27. Exceeding basic legal obligations, for example by training local professionals and forging firm, positive links with the local community, can directly affect the productivity and growth of a firm. By adhering to a Best Practice Guide and/or publicised social values, firms can improve and maintain their corporate image, increase employee satisfaction and enhance employee recruitment and retention. In addition, it can be argued that while firms are able to enjoy the benefits of healthy, stable and prosperous communities, these firms also have social responsibilities to contribute to their communities over and above providing jobs, salaries and benefits and tax revenues.
28. For firms with developed or developing internal CSR programmes, Best Practice Guidelines for CSR can provide a point of reference and thus both complement and reinforce efforts to define and implement responsible business conduct. It should also be noted that, while many firms participate engage in some way with their local community, these activities are frequently categorised as pro bono rather than as CSR. Thus, firms with developed pro bono programmes should not incur any significant additional cost in following proposed CSR guidelines.

29. The Law Centres Federation (LCF), in its response to the European Commission's Green Paper, observes that it would be useful for guidelines on CSR to be published within the legal sector. Furthermore, it argues that the relationship between firms and society and the community needs to be clearly and firmly established with CSR forming an integral part of a firm's business strategy in order to emphasise the firms' responsibility to those living in the local community, its local employees as well as local educational and training establishments and voluntary sector organisations.
30. Indeed, the LCF has additionally noted that a vast amount of CSR activity is ad hoc and there is a need for a more strategic, structured approach which could possibly reap greater benefits both for firms and society.

Summary of arguments in favour of law firms implementing a CSR policy

Increased number of clients and customer loyalty.

31. A number of studies have suggested a large and growing market for the products and services of companies perceived to be socially responsible.¹⁹ Studies regarding the goods industry have shown a growing desire to buy based on other values-based criteria, such as "sweatshop-free" and child-labour-free clothing, smaller environmental impact, and absence of genetically-modified materials or ingredients.²⁰ These studies appear to confirm that customers are interested in and value the overall way an organisation expresses and fulfills its social

¹⁹ By a margin of 5:1, the British public believe that it is more important that companies should show a high degree of responsibility in difficult economic times, according to MORI's annual general public survey on Corporate Social Responsibility. The survey also reveals that the public is now more likely than even a year ago to take a company's social responsibility record into consideration when buying a company's products or services. Nine in ten now regard this as important, compared with eight in ten a year ago. A further eight in ten think it is important to know about a company's activities in society and the community when they are forming a judgement about them.

²⁰ Source: the 1999 Millennium Poll on Corporate Social Responsibility, sponsored by PricewaterhouseCoopers. In this poll, 60% of respondents said that they formed an impression of a company based on its social responsibility (defined as regard for people, communities, and the environment) and 40% responded negatively to, or said they talked negatively about, companies that they perceived as not being socially responsible. Douglas Alexander, UK minister for CSR, has said in his department's second report that 50% of consumers identified corporate social responsibility as important when making a purchase and 20% would boycott a company on social grounds.

responsibilities.²¹ This seems to be reflected in consumers' attitudes towards the service industry, for example, the growth of socially responsible investment (SRI)²² and ethical investment,²³ together with CSR market indices,²⁴ not to mention the continuing profitability of the Co-operative Bank which has striven to conduct its business in a socially and environmentally responsible manner.²⁵

Enhanced employee quality and loyalty.

32. Companies perceived to have strong CSR commitments often find it easier to recruit and retain employees, i.e. they benefit from a reduction in staff turnover, which means lower recruitment and training costs.²⁶ Shell, for example, perceived reluctance amongst graduates to work for the company following the Brent spar incident and the clashes with the Ogoni people of Nigeria.²⁷ Whilst lawyers may not yet necessarily be attracted to work for law firms because of their CSR policies, the public, clients and government would arguably be influenced by this to a greater or lesser extent.

Strategic and comparative advantages

33. Several academic studies have shown a correlation between socially responsible business practices and positive financial performance.²⁸ A company considered

²¹ The 2002 annual Environics CSR Report which questioned a random sample of 1000 citizens in over 25 countries, found that 82% expected large companies, irrespective of industry and sector, to go beyond philanthropy and use their expertise and resources to solve social problems. Furthermore, over one in five consumers, according to the 1999 Millennium Poll on CSR, rewarded or punished companies based on perceived social performance.

²² SRI occurs when investors consider how their personal values and social concerns relate to the investee company's impact on social justice, economic development, peace or a healthy environment when making investment decisions. A recent survey by Deloitte and Touche found that more than 50% of 65 investment fund managers responsible for managing over £1,400 billion of assets, perceived an increased interest in SRI from their clients.

²³ Ethical investment is most commonly used to describe the purchase of stocks and shares (in unit trusts, investment trusts and other portfolios) which have been selected by combining ethical screening with conventional financial criteria. Source: UK Social Investment Forum. Further information can be found at <http://www.uksif.org>.

²⁴ The development of recent sustainability indices such as the FTSE4GOOD index and a similar US initiative, the Dow Jones Sustainability Index (DJSI).

²⁵ For more information on the Co-operative Bank, please see: <http://www.co-operativebank.co.uk/>.

²⁶ A 1997 study of 2,100 MBA students conducted by Net Impact found that slightly more than half said they would accept a lower salary to work for a socially responsible company.

²⁷ Please see the Royal Institute of International Affairs' Briefing Paper entitled '*Towards Global Corporate Social Responsibility*' written by M.Keay.

²⁸ A 1999 study, cited in *Business and Society Review*, showed that 300 large corporations found that companies which made a public commitment to rely on their ethics codes

to be socially responsible can benefit both from its enhanced reputation with the public, as well as its reputation within the business community, thus increasing a company's ability to attract capital and trading partners. Many companies increasingly see their reputation as one of their key assets. Since it can be easily damaged, companies need procedures in place to monitor their activities from an ethical perspective. Thus, CSR appears to be increasingly essential for company competitiveness, as CSR Europe has observed. In addition, a recent study shows that nearly three quarters of European business leaders believe that responsible business practice – e.g. considering employee welfare, local communities and environmental issues – can enhance profitability.²⁹ This trend can only continue in the aftermath of recent corporate scandals engulfing multinational companies like Enron, Xerox, WorldCom and others.

34. Improved relations with local community via relations with the host Bar, local lawyers and firms and the employment of local staff. Facilitated integration for international firms. Employing and training local lawyers and staff provides a valuable opportunity for a firm to develop strong, positive links with the local community, in addition to strengthening professional relations between the foreign firm and host profession.

Increased Productivity and Quality.

35. Companies which have taken steps to improve working conditions, lessen environmental impact and encourage employee involvement in decision-making can reap the rewards of increased productivity and a reduced error rate.³⁰

Reduced Regulatory Scrutiny.

36. Companies that demonstrate they are engaging in practices that comply with and exceed regulatory requirements are being scrutinised less and are being given more freedom by both national and local government entities. In the U.S., for example, federal and state agencies overseeing environmental and workplace

outperformed companies that did not do so by two to three times, as measured by market value added.

²⁹ Business in the Community 2002 'Fast Forward' Research sponsored by BUPA and Marks and Spencers.

³⁰ A study of 15 large employers conducted by the Medstat Group and the American Productivity and Quality Center found that health benefit programs can increase productivity

regulations have formal programs that recognise and reward companies that have taken proactive measures to reduce adverse environmental, health and safety impacts. Such companies are often subject to fewer inspections and bureaucracy, and may be given preference when applying for various forms of governmental permission.

Summary of arguments against implementing a CSR policy

Adequate existing measures

37. It could be argued that the existence of international standards and codes of conduct such as the OECD Guidelines and the UN Compact in addition to corporate-led CSR initiatives obviates the need for an additional set of guidelines on CSR from the Law Society.

Companies are best placed to set a CSR policy themselves.

38. Arguably, firms themselves are in the best position to assess the needs of the local community and adapt themselves accordingly. They are best placed to implement a CSR policy which remains relevant and flexible to their environment. Indeed, the CBI argues that 'since each company has a unique corporate identity, a one-size-fits-all approach is unfeasible'.

Additional costs and expenses.

39. One issue which must remain doubtful pending further examination is the extent to which general good ethical practice can be adopted to follow CSR guidelines with no or little added cost.

A business's sole or primary responsibility is towards its shareholder/clients only.

and decrease company costs related to absenteeism, turnover, disability and health-care claims by up to 30 percent.

40. Activities undertaken to benefit other parties, for example, local communities, represent a diversion from this primary responsibility and undermine the business's key function. The CBI has observed that the primary aim of business is to maximise profitability for shareholders and always act in their best interests. Therefore, arguably, the public interest ought not to be on the wider business agenda at all. Solicitors could argue that their core activities are already essential to maintaining the rule of law and that this goes beyond mere profit generation.

CSR remains the responsibility of national governments rather than global businesses.

41. Businesses operate within the legal framework laid down by the government and as such, they remain subject to the public policy imposed by the government. In addition, businesses are neither established nor qualified to provide social and other services; it would be inefficient for businesses to supersede the government's role. Businesses are increasingly being expected to take the lead in promoting ethical practices with neither the sufficient incentive nor the authority to do so. As the Corporation of London notes in its Policy Statement, local CSR activities complement – but do not act as a substitute for – the central role of government and public authorities. Some have commented that this practice has much to do with the fact that politicians are cautious and not confident about setting standards in business and hence, they have lost their initiative regarding CSR.

No clear commercial benefits are associated with CSR; CSR is merely a superficial marketing tool.

42. Certainly, there has been no definitive, conclusive, comprehensive research on CSR and arguably, the business case for CSR still needs to be formed.

Conclusions

43. If CSR is viewed as a process by which a business manages its relationships with all of its stakeholders, the case for CSR becomes apparent because CSR concerns the building of relationships with customers, the attraction and retention of talented staff, risk management and reputation enhancement. Arguably, it

appears that ignoring CSR and its potential effects will not always be considered to be acting in the best interests of any shareholders.

44. The Law Society is keen to promote a dialogue amongst solicitors, law firms and their stakeholders, on what type of CSR action would be most beneficial for all and on what role the Law Society can usefully play to promote this.

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