

Doing the right thing will also be good business

By Tony Williams

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Tony Williams on why law firms should embrace an ESG agenda which has been supercharged by Covid-19

The Covid-19 pandemic has caused unprecedented disruption on a global scale to people's lives and businesses. Tens of millions of people have been infected, and over a million have died.

Businesses especially in the travel, hospitality and leisure sectors have been crushed, governments have turned on the printing presses to provide unprecedented levels of financial support to health services, individuals and businesses. A global race is on for effective treatments and vaccines.

As we are still in the grip of the pandemic it may be premature to be planning in detail for the post pandemic phase but it is both appropriate and necessary to be thinking about how the pandemic will have changed our attitudes to business, the relationships between business and consumers and the social contract that businesses have with the societies in which they operate.

Prior to the pandemic the evolving ESG (environmental, society and governance) issues were gaining traction and becoming increasingly relevant to the mainstream business community. The pandemic appears to be supercharging this evolution.

Major corporates appear to be falling over themselves to flaunt their ESG commitments. Some may be real and transformational, others cynical window dressing, but in any event more questions are being asked of the corporate community than ever before by investors, governments, customers, employees and pressure groups.

Our latest Jomati research report *Reimagining your business in a post Covid-19 world: rebuild better* looks into the role that lawyers have in this change.

There are two key areas for law firms to address.

First the ESG agenda is a massive business opportunity for lawyers. Many of the relevant principles are enshrined in local laws, industry association rules, international treaties and codes of practice. Countries vary in their legislative approach but there is a trend for more prescriptive legislation and also requirements imposed by stock exchanges on listed companies or by commodities exchanges relating to the products traded on their exchanges.

Whether having the force of law or not, lawyers need to navigate and understand the sources of these rules and principles to provide coherent and comprehensive advice to their clients.

As clients grapple with these issues, lawyers who are proactive have a major role to play in helping their clients establish and deliver their approach to ESG issues.

Many of the ingredients of ESG policies will have been dealt with by law firms in the past without them necessarily realising it. Discrimination issues in employment law, through to outsourcing contracts and supply contracts will all have ESG elements.

Firms will need to pull this expertise together and demonstrate a comprehensive understanding of the issues, the comparative position in different countries and the factors impacting specific industries or sectors. This presents a significant opportunity to develop a comprehensive and compelling client offering.

But it is also more than that. Lawyers will have to advise their clients on the relevant rules and regulations but also to be alert as to whether a particular course of action is consistent with the ESG policy espoused by the client. They will also have to assist clients by developing ESG policies and implementation plans and undertake investigations where things appear to have gone wrong.

The recent investigation in the UK into working practices and working conditions at suppliers to the online clothes retailer Boohoo.com shows just how important and far reaching these issues can be. The Boohoo.com share price was significantly impacted by the negative coverage. Advising clients on the direction of regulation, investor expectations and emerging consumer issues will add an important policy piece to a firm's traditional legal offering.

The second area of importance to law firms is to get and be seen to get their own houses in order. Increasingly clients, employees, future employees and regulators will expect law firms to be achieving significant change in their approach to ESG issues.

Given ESGs wide ranging nature there are plenty of issues for law firms to address. These include diversity (in all its forms) and how it is addressed in recruitment, work allocation, advancement, remuneration and leadership roles. It also includes the firm's carbon footprint, recycling and business air miles. On these and many more measures firms will increasingly be expected to be transparent and to be taking real and concerted action towards measurable goals.

In many respects, especially for law firms, doing the right thing will also be good business.

Developing a diverse workforce and leadership team should enhance staff retention and motivation and lead to better decision making. Many of the environmental targets will also reduce expenditure.

Accordingly, rather than doing the bare minimum or making token gestures, firms that really take these issues to their core and both live the values and demonstrate their understanding and commitment to them to their clients and staff will demonstrate that lawyers really can be a force for good in a changing world.

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