

LARGE LAW FIRMS AND CORPORATE SOCIAL RESPONSIBILITY

Steven Vaughan, Linden Thomas and Alastair Young

'It is unclear whether the public commitment to corporate social responsibility by some large law firms is a result of dedication by those firms to the principles of CSR, or simply a knee jerk reaction to the implementation of CSR strategies by their competitors.'

Steven Vaughan, Birmingham Law School

Corporate social responsibility (CSR) is about the impacts that businesses have on their surroundings. CSR can take a variety of forms – carbon reductions, charitable giving, flexible work policies etc – and has been of interest to policy makers, academics and businesses themselves for the last five decades. To date, however, little attention has been paid to CSR and large law firms. This is surprising given that these largest law firms are powerful, significant economic actors with potentially large, significant impacts. The top ten of the top 100 English and Welsh firms:

- have a combined annual turnover of just over £10 billion; and
- employ more than 2,000 lawyers each, with the largest (DLA Piper) employing over 4,000 lawyers and 8,000 staff worldwide in 89 separate offices across 30 countries.

In their research – *Symbolism Over Substance? Large Law Firms and Corporate*

Social Responsibility – Vaughan, Thomas and Young use data taken from the websites of large law firms in England and Wales to outline and critique how those firms 'do' CSR.

While the data suggests that public commitment of the top 100 law firms in England and Wales to CSR is widespread, how this commitment is presented by the firms varies significantly. Though the majority of firms say *something* to the wider world about their CSR activities, few firms explain *why* they are committed to CSR. As a general trend, the lower the ranking of the law firm, the less they say about CSR and the less likely they are to explain their CSR motivations, although there are some notable exceptions to the rule at both ends of the rankings. Consistently, the top ten firms outperform lower ranked firms on all elements related to CSR. For some firms, however, it appears that the public commitment to CSR has greater symbolic than substantive weight.

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THE PROJECT

In August 2014, the authors reviewed the websites of the top 100 law firms in England and Wales, as ranked by the trade publication *The Lawyer*. They were interested in the public disclosures made by those law firms about their CSR practices, broken down into four categories:

1. Community Giving – activities such as volunteering, charitable giving and fundraising;
2. Pro Bono – the giving of free legal advice and/or representation;
3. Equality and Diversity; and
4. Environment and Sustainability.

The authors were hampered in a number of areas by the poor quality of publicly available data. Equally, what law firms say that they do by way of CSR on their websites may not reflect what they actually do in the real world.

88 OF THE TOP 100
LAW FIRMS HAD A
CSR SECTION TO
THEIR WEBSITES

ONLY 21 OF THESE 88 FIRMS
(24%) EXPLAINED ON THEIR
WEBSITES/ASSOCIATED CSR POLICIES/
ANNUAL REPORTS, WHY THEY
REPORTED ON CSR AND/OR WHY
THEY FELT CSR WAS IMPORTANT
FOR THEM AS A FIRM



CSR DISCLOSURES

The vast majority of the top 100 had CSR sections to their websites and said something to the wider world about CSR, sometimes simply acknowledging that they 'do' CSR, or detailing examples of community giving activities. Fewer firms also had distinct sections addressing pro bono, equality and diversity, and environmental and sustainability matters.

The authors had expected that the higher the ranking of the firm, the better its disclosures on CSR would have been. This, however, was not necessarily the case. Simmons & Simmons (ranked #15), for example, had a more voluminous and accessible CSR section to its website than Herbert Smith Freehills (#9). Osborne Clark (#31) said fewer than 150 words about CSR; whereas Burges Salmon (#46) had a series of relatively detailed pages on its CSR activity.

Eight of the top ten English law firms produced annual CSR reports, a tradition that began in 2005/06 with Freshfields (#3). Most of these reports were around 20 pages long. This trend, for the production of CSR reports, was not seen with the smaller firms in the top 100.



Law Firm Ranking	CSR Section	Pro Bono Section	Equality and Diversity Section	Environment/ Sustainability Section
1-10	100%	100%	100%	90%
11-25	93%	60%	93%	87%
26-50	84%	56%	72%	64%
51-100	81%	57%	72%	50%

Note: These percentages relate to the presence of CSR sections/sub-sections on law firm websites.

WHY DO LAW FIRMS DO CSR?

The motivations of law firms in undertaking CSR vary from firm to firm and reflect:

1. the 'business case' (that is, there are economic drivers for doing CSR). This is partly demand-side led, via specific clauses imposed by law firm clients in tender documents and law firm panel appointment processes. There are also some suggestions that law firms adopt CSR policies as a way of increasing productivity; and/or
2. the 'moral case' (that is, an acceptance that reflecting on the impacts that a law firm has on the world is the 'right thing' to do); and/or
3. positive impacts on law firm recruitment and staff satisfaction and development.

PRO BONO AND COMMUNITY GIVING

'The largest law firms report a significantly greater degree of client engagement in CSR activities. This, coupled with the higher proportion of annual reporting, suggests a coordinated and strategic approach to CSR amongst the top 10 firms which is not present even amongst their closest competitors.'

Linden Thomas, Birmingham Law School

The authors were interested in what law firms said about their pro bono and community giving activities. Law firms of all sizes engage in a diverse range of community giving activity, including donating money to charity and/or facilitating employee involvement in charitable activities, such as redecorating a charity's premises, teaching school children to read or taking part in a sponsored event. A focus on young people is a common denominator throughout the top 100 firms' community activities. DLA Piper (#1), for example, runs a scheme entitled 'Break into Law', which provides mentoring, employability skills workshops and scholarships (amongst other things) for young people considering a career in the legal profession. While Boodle Hatfield (#99) operates a reading scheme with a local primary school.

IN 2014 THE 9 FIRMS IN THE TOP 10 THAT DISCLOSED HOURS ON PRO BONO AND/OR COMMUNITY ACTIVITIES GAVE



**653,420
HOURS
OF THEIR TIME.**

Since the mid twentieth century, 'pro bono' has signalled the giving of legal advice by lawyers without compensation, an activity distinct from the more generalised remit of 'community giving' and one which lawyers are almost uniquely placed to undertake. However, the authors encountered a number of difficulties in seeking to analyse the data available on pro bono practices by large English law firms. An initial challenge was that not all firms differentiate between pro bono work and community giving more generally, or do not provide sufficient information on their websites on the nature or amount of pro bono work undertaken (eg, types of pro bono activities, or hours spent on pro bono). Many firms grouped time employees spent on community giving and pro bono activities together when disclosing total hours. This is the wrong approach, and devalues the powerful potential for law firms to provide free legal advice or representation.

21 OF THE TOP UK 100 FIRMS DISCLOSED THEIR PRO BONO AND/OR COMMUNITY GIVING HOURS. IN TOTAL, THIS CAME TO 715,433 HOURS OF GIVING. BY COMPARISON, IN THE US THE TOP 200 LAW FIRMS REPORTED PERFORMING A TOTAL OF 4.75 MILLION DOMESTIC PRO BONO HOURS IN 2014.



EQUALITY AND DIVERSITY DISCLOSURES

'In general, the report card for law firm diversity disclosures reads: "can do better".'

Steven Vaughan, Birmingham Law School

Of all of the aspects of CSR covered in the project, equality, diversity and inclusion (EDI) is the only area in which law firms in England and Wales have a legal obligation to collect and report data. In July 2011, the Legal Services Board (LSB) – the overarching regulator of legal services – introduced a rule requiring the collection of data on workforce diversity, and the publication of that data, by the legal profession. 78 of the top 100 law

firms reviewed had a diversity section on their websites. These webpages disclosed a raft of EDI initiatives undertaken by firms, but, despite the obligation to publish, hard data on law firm workforce diversity was lacking for a number of firms reviewed: only 58 of the top 100 firms disclosed partial diversity data on their websites. The spread of data disclosed was, on the whole, rather poor.

How diversity data was reported varied significantly between firms. Norton Rose Fulbright (#7) gave aggregated disability data for everyone in its London office in the year 2014 (ie, for the entire office workforce, and not broken down into partners/associates/trainees/staff etc); CMS Cameron McKenna (#8) gave disability data broken down into partners, associates, trainees, 'other legal', secretaries and business services but only for the year 2011; and a whole raft of other firms provided no data whatsoever on disability.

RESEARCH SPOTLIGHT

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ENVIRONMENTAL AND SUSTAINABILITY DISCLOSURES

Disclosures by law firms on environmental and sustainability matters were the poorest of all of the elements of CSR reviewed, both in terms of numbers of firms reporting on these matters and on the quality of the disclosures made. Over a third of the top 100 firms did not have separate environment/sustainability sections to their websites. Where these sections were present, they varied considerably.

Hard data on environmental matters (eg, the firm's carbon footprint, waste reduction figures) was disclosed on an ad hoc basis. In some firms, the public disclosures on environmental matters amounted to aspirational, vague mission statements. What seems to make (some) difference is whether or not a firm is a member of the Legal Sustainability Alliance (formerly known as the Legal Sector Alliance), a voluntary grouping of law firms committed to various sustainability matters. Surprisingly, there did not appear to be any connection between the extent to which a law firm reported on environmental/sustainability issues and how highly that firm was ranked for its environmental law expertise.

RECOMMENDATIONS

The authors' review of disclosures by large law firms on CSR leads them to three recommendations:

1. It is important to ask why large law firms



are not required to report on CSR in the same ways as their clients (many of whom have CSR related obligations under statute). This debate would recognise the potentially significant CSR impacts that large law firms can have. Law firms need to be reflective of these impacts, and of why and how they 'do' CSR.

2. The merging of pro bono work and community giving by many large law firms (in how they report on these activities) is a mistake which potentially devalues the powerful role that lawyers in large firms can play in giving free legal advice and representation.
3. There is a need for best practice guidance on the reporting of diversity data. The discretion given to large law firms on how they report diversity data is concerning, as the lack of consistency and variable quality between firms means that it is impossible to compare like with like. Linklaters and Simmons & Simmons are two law firms that can be held up as leaders on diversity reporting, and firms to which their competitors, and the regulators, could look for inspiration.

References

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