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ESG Toolkit for Law Firms



IBA Law Firm Management Committee 2021



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Foreword

Dear IBA member,

There is a growing expectation that all types of businesses must step up and take responsibility for delivering positive outcomes for society and, thus, businesses today are being challenged to balance their financial considerations with the wider Environmental, Social and Governance factors, which are collectively referred to as 'ESG'.

With the ongoing global climate crisis and other crucial current events, the world's focus on ESG compliance has been further heightened, and lawyers worldwide are also now seriously considering how they and their law firms can adopt ESG best practices and adhere to them; not only for responsible business management but also to ensure better growth and new business opportunities for themselves. Thus, ESG compliance is now becoming an important aspect of today's law firm management and law firm leaders globally are very actively exploring and integrating ESG as an essential element of their everyday law firm management practices.

As the IBA Law Firm Management Committee constantly endeavours to provide its members with useful resources on topical matters, it has prepared this ESG Toolkit to help members: understand the scope and importance of ESG from a law firm management perspective; have an easy tool to self-analyse their firm's current ESG compatibility; and have ready guidance on what steps and actions need to be taken for efficiently integrating ESG and further improving their firm's overall ESG compatibility.

We hope you find this ESG Toolkit useful.

Best regards,

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Introduction

There is growing expectation that all businesses must step up and take responsibility for delivering positive outcomes for the environment and the society. There is also a strong business case for taking up such business responsibility and practices. The key criteria used for measuring the sustainability and ethical impact of an organisation are Environmental, Social and Governance (ESG):

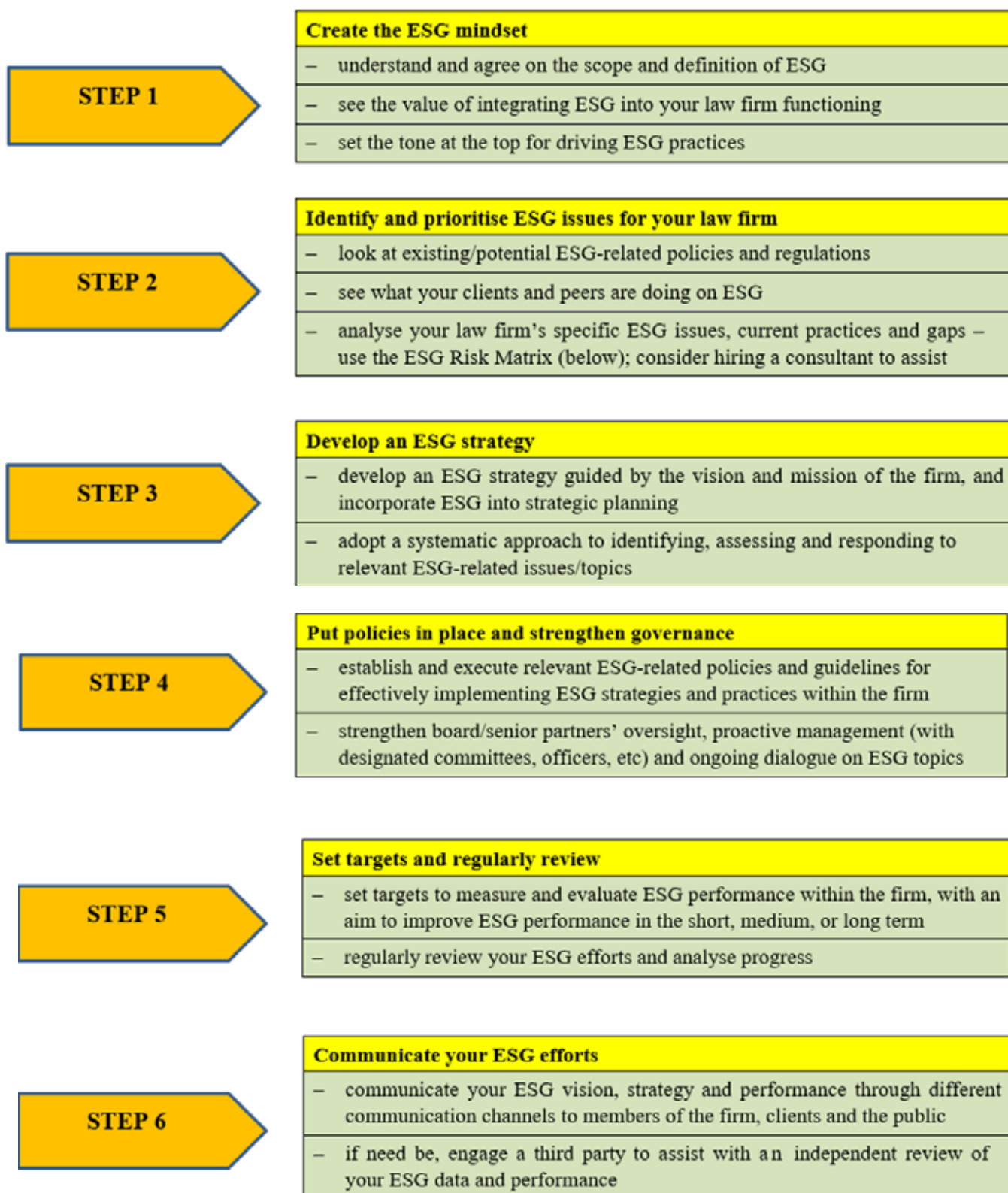


Strong ESG performance has been shown to create a variety of competitive advantages for the organisation. Some key benefits of recognising ESG-related factors in organisational management include attracting the best clientele and talent, and optimal utilisation of resources.

For responsible business management, and to allow for better growth and new business opportunities, law firms are now increasingly integrating ESG factors into law firm management, such as business strategy, decision-making processes and operations.

Steps for integrating ESG

Integrating commercial success with positive outcomes for the society and environment may require reframing current business practices. For improved sustainability performance, law firm leaders should adopt a proactive approach to holistically integrate ESG into their law firm management and operations. This would include efforts in corporate governance, risk management, strategies, reporting, etc.



ESG policies and other steps and actions

ESG policies comprise of a wide range of policies providing for different aspects of environmental, social and governance sustainability in the day-to-day context, and in terms of long-term growth and development. These policies would differ from organisation to organisation, and would depend on various factors including: organisational structure; jurisdiction; overall vision, mission and strategy; client requirements; regulatory requirements, etc. The important underlying element, however, is that all ESG policies should be living documents which constantly evolve to serve the organisation's present and future needs, and they should provide the roadmap for achieving the organisation's sustainability goals.

Under the umbrella of ESG, law firms usually put in place policies, such as: environmental policy; diversity and inclusion policy; anti-sexual harassment policy; corporate governance and corporate social responsibility policies, etc. Sample ESG policies adopted by a law firm can be viewed at www.traverssmith.com/knowledge/knowledge-container/sustainability-at-travers-smith.

The following is an indicative list of *some* of the ESG-related actions that law firms can take under the different management/operation heads:

People	Clients	Practices and Sectors	BD, Marketing, Communication, Know-how
<ul style="list-style-type: none"> • Diversity, inclusion & equity • Healthcare • Working hours • Inclusion of ESG in personal and professional business planning and development • Alignment between bonus scheme and personal/professional business plans (including ESG) 	<ul style="list-style-type: none"> • Pro bono clients • Pro bono activities for clients (including ESG activities) • ESG as a criteria in client evaluation • Developing in-depth insights into ESG related issues for top clients and key sectors 	<ul style="list-style-type: none"> • Social finance & impact investments • Human rights working group • Accessing free legal advice/pro bono • Decarbonisation • ESG risk assessment • Sustainable finance • Climate change • Other environment-related practices (including, pollution & waste handling and natural resources) 	<ul style="list-style-type: none"> • Develop an ESG mission and vision statement • Develop ESG business intelligence capabilities • Use social media (LinkedIn, Instagram, YouTube) to promote your ESG commitments • Conduct/participate in ESG-related seminars/conferences • Publish articles on ESG • Invite speakers/experts on ESG topics

Offices	Governance	Finance and Reporting	Operations
<ul style="list-style-type: none"> • Green energy • Energy savings • Water consumption savings • Zero carbon • Recycling • Green roof • Solar panels 	<ul style="list-style-type: none"> • ESG Committee • Chief Sustainability Officer • Procurement Officer (with focus on ESG) • Diversity and Inclusion Officer • Pro Bono Partner • Alignment between (individual) ESG performance and profit sharing and/or partner appraisals • Corporate behaviour policies (including, business ethics, anti- bribery and anti-corruption policies) 	<ul style="list-style-type: none"> • Choose sustainable development goals • Measure progress • Annual reporting • Assess the firm's financial partners (bank, pension funds, insurance, other) on ESG criteria 	<ul style="list-style-type: none"> • 5R policy: Refuse, Reduce, Reuse, Repurpose, Recycle • Energy and water savings • Resource saving (paper, plastic, ink, etc) • Responsible procurement policies (with clients, suppliers and contractors) • Zero carbon (ie, off-set travel carbon emissions, plant number of trees per new client, matter, revenues, etc) • Replace plastic disposal materials with sustainable materials • Introduce food and beverages from bio/local resources (farmers) • Introduce meat-free lunches • Travel (support bike, public transport)

ESG risk matrix

Set out below is an ESG risk matrix to help with your firm’s ESG analysis. This ESG risk matrix indicates some of the areas of ESG risk applicable to businesses in the legal sector. It has been compiled with reference to various international standards and instruments and has been tailored to reflect some of the common ESG-related risks facing office-based legal industry service providers.

Please note that the listed ESG risk factors are for illustrative purposes only and are not intended as an exhaustive list. It covers a range of issues and risk, some of which will not be overly applicable to a given firm’s operational realities. As such, the suggested matrix is a starting point to assist firms in tailoring their own approach. More generally, this is a fluid area and should be carefully monitored for developments in both the regulatory and voluntary landscape.

ESG Risk Factors		Impact on firm and/or client services	Impact rating (Annex A below)	Likelihood rating (Annex B below)	Risk rating (Annex C below)	Risk management plan (Annex D below)	Mitigation assessment and notes reactions taken to mitigate	Last review date
Environment	Climate change caused by GHG (ie, greenhouse gas) emissions							
	Low air quality/pollution							
	Non-compliance with relevant water and waste water management legislation							

Social	Modern slavery, forced labour and human trafficking risk							
	Gender pay gap reporting							
	Diversity and inclusion							
	Employee health and safety							
	Employee training and education							
	Community engagement							
	Corporate social responsibility							
	Failure to comply with internationally accepted labour standards, ie International Labour Standards (ILO)							
	Key staff turnover							
	Data security, including: i. Security breach resulting in exposure of client information ii. Security breach resulting in exposure of company data iii. Phishing/hacking event resulting in financial loss iv. Loss of key information and/or business data							
	Failure to comply with internationally accepted labour standards, ie International Labour Standards (ILO)							
	Key staff turnover							

	Data security, including: i. Security breach resulting in exposure of client information ii. Security breach resulting in exposure of company data iii. Phishing/hacking event resulting in financial loss iv. Loss of key information and/or business data							
	Non-compliance with General Data Protection Regulation (GDPR)							
Governance	Bribery and corruption							
	Supply chain management							
	Breach of internationally accepted human rights, ie Universal Declaration of Human Rights							
	Modern Slavery Act reporting obligations							
	Executive/partner remuneration							
	Board/Partnership diversity reporting							
	Violation of tax evasion laws							
	Violations of Anti-Money Laundering Regulations, eg Proceeds of Crime Act 2002							

Annex A: Impact Rating Assessment

Please note that these impact ratings have been included for illustrative purposes only and should be amended to reflect your firm's turnover, financials, size, risk outlook, etc.

Rating	Impact	Reputation	Environment	Cost	Legal	Safety
5	Severe	External reputation irrevocably damaged	Would cause catastrophic environmental damage leading to fines/legal liability	>£2m	Numerous major litigation risk/ termination of contract for breach or default	Would cause loss of life
4	Major	External reputation severely damaged, and considerable expense and effort will be required to recover	Would cause extensive environmental damage requiring significant resources to rectify	£1m–£2m	Some major litigation risk or numerous moderate litigation risk/written notice from client threatening termination of contract if not rectified	Would cause serious casualties resulting in long-term physical impairment of personnel
3	Moderate	External reputation damaged, and some effort and expense will be required to recover	Would cause some environmental damage requiring the allocation of some resources to rectify	£500k–£1m	Single moderate litigation risk/verbal communication that if breaches continue, a default notice may be issued	Would cause several casualties that require medical attention off-site with no long-term effects
2	Minor	External reputation minimally affected, and little effort and expense will be required to recover	Minor environmental damage. Rectification can occur within existing budget	£100k–£500k	Single minor litigation/ dissatisfied client	Would cause several minor casualties that require medical attention off-site with no long-term effects
1	Insignificant	External reputation not affected	No environmental damage	£0–£100k	No litigation risk/no effect on contract performance	Would cause minor injuries that are able to be treated at the site with no long-term effects

Annex B: Likelihood Rating

Rating	Likelihood	Occurrence	Frequency
5	Expected	Expected to occur in given circumstances	Event is expected in most circumstances
4	Highly likely	Highly likely to occur	Event will occur multiple times per year
3	Likely	Likely to occur in given circumstances	The event could occur once every year
2	Not likely	Not likely to occur in given circumstances	The event could occur every one to five years
1	Remote	Remote expectation of occurrence	The event may occur in exceptional circumstances (eg, greater than five years)

Annex C: Risk Categorisation Matrix

	Impact					
		1. Low	2. Moderate	3. High	4. Significant	5. Critical
Likelihood	5. Expected					
	4. Highly Likely					
	3. Likely					
	2. Not Likely					
	1. Remote					

Annex D: Mitigation Plan Assessment

Score	Rating	Description
3	Ineffective	Current risk management plan does not exist or is likely to be ineffective at preventing or managing the risk
2	Partially effective	Current risk management plan exists and will reduce or eliminate some of the impact of the risk or partially reduce the time to fully recover from an event
1	Effective	Current risk management plan exists and is considered to appropriately manage the risk and recovery from an event

This toolkit has been developed to highlight the importance of ESG in law firm management and provide an easy tool to assess your law firm's current ESG compatibility. The laws, regulations and practices on ESG differ from jurisdiction to jurisdiction, and may change from time to time. Please use this toolkit only as a starting point for your ESG analysis and build on it as per your firm's specific requirements. If you have any questions in relation to this toolkit, you can reach out to **Tahera Mandviwala** (tahera.mandviwala@tdtlegal.co) or **Robert Beemen** (robert.van.beemen@ventrisconsulting.com).



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